

GOVERNANCE AND THE ECONOMY IN AFRICA:

Tools for Analysis and Reform of Corruption



Center for Institutional Reform and the Informal Sector
University of Maryland at College Park

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Foreword

by Anne Williams

USAID Mission Director, Dakar, Senegal

Africans today are beginning to talk openly about what they perceive as one of the greatest continuing barriers to good governance and to sustained economic development "the climate of corruption " By this they mean that the everyday lives of most Africans are permeated by corruption land use, road barriers, health care, credit, imports and exports, to name a few, all provide occasions for corrupt practices From the highest levels, where substantial bribes and Swiss bank accounts are a way of life, to the lowest levels where obtaining simple documents requires a cadeau, Africans see public officials using their offices for private gain For a variety of reasons, such corruption has been a taboo topic

However, Africans are coming to recognize that this climate of corruption cannot remain a topic hidden behind the silence of donors and Africans alike For Africa to move into the global economy of the 21st Century, it must develop a different climate, one of good governance, where transparency and effective management become the rule of the day In response to this demand for openness on the part of the Africans themselves, USAID/Senegal and IRIS held a training seminar on March 5-7, 1996 and developed this tool kit These two "events" were designed pragmatically to demonstrate that YES, one can fight corruption, and YES, this climate of corruption can change

I would like, therefore, to offer this volume to all the transparency advocates and warriors, working to transform Africa to take its rightful place in the world of the 21st Century

About this Volume

In the concluding scene of his classic 1959 film *Touch of Evil*, Orson Welles acts out the demise of a corrupt local sheriff. The setting is a seedy Texas border town, along a pestilential stretch of the Rio Grande, dividing the U S from Mexico. Having failed to destroy his nemesis, a dashing young prosecutor and reformist, the sheriff is mortally wounded in an exchange of gunfire. As his bloated, ugly figure expires and sinks into the river, one is left to ponder whether his disappearance will make any real difference to the rotten moral and political order he leaves behind. Is corruption a recurring plague? Is there no way out? Will power always bring out the evil in us?

Think of the prosecutor. It is a fair guess that there is at least one of him for every old sheriff, and potentially more. The open question is whether the system affords him a constructive role -- or denies it. If history is any guide, the quality of those government structures limiting the temptations of rulers plays a more important role in determining the reach of corruption than a people's moral fiber. Power alone doesn't corrupt -- untrammelled and unaccountable power corrupts. Where the struggle toward democracy and prosperity creates laws, policies, practices, indeed cultures of accountability, the young (and old) idealists of the world are able to discipline the powerful for the greater good.

A Summary

The present volume is about the ways in which contemporary developing nations have begun to impose discipline on those holding power, and more importantly how African societies can do so on a much greater and more permanent basis. This work, and the conference that began it, was prompted by the continuing economic hardship Africa has experienced, and the nexus of this suffering with corruption and related failures of governance. Corruption thwarts political choice and planning -- rarely for the good and often with severe negative consequences for economic development, the environment, health, and the political order.

generally

What is to be done? The sheer size and complexity of the problem in no way diminishes its urgency. This volume attempts to break down the large problem of corruption into many smaller problems, to suggest ways of analyzing these problems that are relevant and useful to reformers in Africa, to present a sampling of experiences that various countries have had in addressing corruption, and to examine the lessons of those experiences. This is not the first attempt to do this. Other books and resources on this subject are referred to in the text and listed at the back. This volume places the economic harms of corruption in the foreground, with the aim of helping to *prioritize*, to identify as focal points those areas where the harms are greatest and the problems most susceptible to resolution. This is the crux of policy choice in this area. Just as important, this volume focuses on African experiences and on approaches relevant to African reformers. The aim, in sum, is to provide an appropriate resource for the region.

The volume begins with the analytical. Chapter one provides an overview. It addresses the threshold issues: How to define corruption? Where is it situated in the scheme of governance and economic relations? Why is it difficult to stop? Understanding it as a problem primarily of institutions rather than personalities is the first step towards addressing it. The second chapter analyzes corruption as an institutional and organization failure, and discusses some of the specific economic and political impacts of this failure. It also provides illustrations of these failures in contemporary Africa. In doing so, it draws attention to those areas most vulnerable to corruption, where the harms are tangible, and hence where urgent attention is needed.

The remainder of the volume concerns cases and approaches. The third chapter presents five case studies, three of them from Africa. Each of them illustrates the causes and consequences of corruption, and the strategies and approaches used in addressing it. In addition to Benin, Niger, and Uganda, additional cases come

from Bolivia and the United States. This selection is meant to provide regional examples while stressing the relevance of outside experience -- sometimes a point of contention among political and academic adherents of particularism. The final chapter synthesizes the lessons of the case studies and attempts to provide guidance for those facing similar issues in the region. This guidance takes in both the macro or strategic level and the level of tactics and methodology. It addresses such questions as: What should the longer-term structural objectives be in an effort to contain corruption? What political strategies are available to bring about collective action for reform where views and vested interests conflict? What to do next -- what can be done in the near term to address these problems more fully?

Acknowledgements

The present volume has many progenitors. Most immediately, it grows out of the proceedings of a workshop entitled "Good Governance and the Economy in Francophone Africa," sponsored by USAID/Senegal in cooperation with the Center for Institutional Reform and the Informal Sector (IRIS) of the University of Maryland. Some 35 participants representing a broad span of governmental and private functions across the region worked with the IRIS team on discussions and case studies of corruption. These focused on aspects of institutional environments that lead to corruption, its effects on economic performance, and efforts to strengthen governance mechanisms in order to contain and prevent corruption. It was a rich discussion that deserves to be carried forward in many forms, of which the present volume is but one.

The efforts of several people made the workshops and this written sequel possible. Anne Williams, in discussions with reformers during her tenure as USAID Mission Director, first in Chad and currently in Senegal, identified issues of corruption as important obstacles to development in the region and as worthy of USAID's special attention. Robert Klitgaard, who contributed the most material to this volume, inspired this undertaking with his pathbreaking book, *Controlling Corruption*. Numerous staff

members of USAID/Senegal and IRIS worked hard to bring the workshop and this volume into being, aided by a small group of outside experts. Finally, the workshop participants, who included senior officials, jurists, academics, journalists, and heads of civic organizations from across Francophone Africa, provided no small measure of intellectual energy, ideas, examples, and inspiration to this work.

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Another Resource IRIS

We at the IRIS Center would like to hear from the readers of this volume. African reformers and their allies at USAID have already contributed importantly to this work. Two of the case studies in chapter 3 were contributed by USAID staff, and workshop participant groups produced the sample cases presented in the annexes. This volume is only a small beginning, and is in any event a work in progress. We would value any information cases and examples, comments, and suggestions from readers. Building the information base, including "best practice" and other records of experience, is of vital importance in this field as in any other.

The IRIS Center, a non-profit policy institute attached to the University of Maryland Department of Economics, pursues two main objectives: expanding knowledge about institutions in economic development through research and assisting reform efforts in the Third World and in countries undergoing transitions to a market economy. The premise of the IRIS Center is that in unsuccessful economies the existing rules establish poor incentives, often forcing economic activity into the informal sector, and that appropriate reforms can improve economic performance. IRIS provides technical assistance and policy analyses to groups seeking to improve laws, regulations, and procedures in support of competitive markets and democratic governance.

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Chapter 1: Governance, Development, and the Quality of Institutions

Development is about innovation. Many times in the world's history, technological breakthroughs, new markets, and innovative forms of organization have spurred growth and helped enhance the quality of life. What makes this possible? Most would agree that institutions and structures of governance play an important role. The quality of laws and political institutions in large measure determines whether innovators and their ideas are allowed into the marketplace, whether they can expect to gain from their labors, and whether they in turn can be expected to treat competitors and customers fairly. Political choices, embodied in constitutions, laws, policies, and conventions, set the rules of the game and empower their arbiters. The making and implementation of these choices is the labor of democracy. If these choices are not contested and adjusted over time, or if they are subverted by corruption, innovation and hence development grind to a halt in favor of powerful and protected interests opposed to change.

The present volume addresses corruption. This chapter aims to lay the foundation for the rest of the volume by clarifying what corruption is and what it is not for purposes of our discussion. A complex and intractable phenomenon such as corruption can be addressed effectively only if it is analyzed and deconstructed in a way that yields insights into the means of correcting it.

Corruption has many faces--the border town sheriff, the *gendarme* manning the roadblock, the government minister with a Swiss bank account. It also has many layers of meaning: physical, political, moral, religious. The practical intent of this volume means that we regard it first and foremost as a failure of governance, a failure with tangible economic and political consequences. Beginning the discussion at this point enables us to set aside spiritual issues, which are important but are not the focus here.

Corruption, then, is a failure of governance. What do we mean by "governance?" It refers to the fact that a people manages its affairs according to its own norms of fairness and legitimacy, embodied in laws, procedures, policies, conventions, and organizations designed to carry them out. One could refer to all of these as "institutions." The quality of these institutions is an important determinant of both economic and political development.

Institutions and the Economy

In the most important sense, institutions are rules. There are, first, the "rules of the game" such as laws, regulations, policies, "customary" laws, and court decisions. Then, there are rules about who makes and applies those rules and how this is done, as in the case of administrative law and procedure, electoral laws, and civil service regulations. Finally, there are the rules that constrain all rulemaking -- this would be the level of the constitution, the rule of law, and the standard of legality or legitimacy that informs them in any given society.

Institutions play a critical role in economic performance. There is good reason to believe that the difference between poor countries and rich countries has less to do with the existence of factors of production -- land, capital, and labor -- or even of technology, than with the institutions that affect their deployment. Rules and implementing agencies determine how those factors are obtained, how they are transferred, and how they are used. Institutions that support contract and property rights are essential for efficient markets. These can be either formal legal and regulatory structures created by the state or informal, indigenous institutions rooted in local traditions coexisting with the state. By reducing transaction and information costs for private entrepreneurs, these institutions promote risk-taking and

investment ¹

Institutions structure individuals' and firms' incentives for innovation, production and exchange and, thereby, either impede or enhance economic growth and development. They affect growth also through their effects on expectations, social norms and preferences ². At the most basic level, incentives to save and to invest depend upon individual rights to marketable assets--on property rights. Cross-country studies confirm that institutions that protect property rights are crucial to economic growth ³. Impartial contract enforcement procedures also provide a critical incentive for the formation of complex commercial agreements. These procedures enhance predictability in the system by restraining opportunism and diminishing the arbitrary influence of elites. This reduces the costs and increases the benefits of exchange. According to Douglass North, "The inability of societies to develop effective, low cost enforcement is the most important source of both historical and contemporary underdevelopment in the Third World" ⁴. Limited liability companies, intellectual property, insurance and futures markets provide further incentive for innovation and risk taking where governance institutions provide a basic level of predictability.

Judicial and administrative institutions devoted to providing clear and transparent mechanisms for private and public

¹ See, Williamson (1994) '*Institutions and Economic Organization: The Governance Perspective*', The World Bank

² At the same time, economic growth can trigger changes in institutions

³ See Knack and Keefer (1995), *Institutions and Economic Performance: Cross Country Tests Using Alternative Institutional Measures*. Economics and Politics, 7(3)

⁴ North D (1990), '*Institutions, Institutional Change and Economic Performance*' (Cambridge: Cambridge University Press), p 54

sector interaction are also essential to economic growth and equity. Institutions of governance are at risk of abuse from illicit and rent-seeking behavior by public and private agents. The ability of the government to avoid these risks and enforce a consistent and transparent policy framework, or "rules of the game", determines the extent to which the private sector has confidence in that framework.⁵ Good institutions can also have powerful equality-promoting effects, enabling individuals with little property and without political connections to make investments in themselves and in their enterprises so that they can accumulate wealth. In countries with poorly developed legal and regulatory institutions for protecting property rights or enforcing contracts, it is the poorest who are most disadvantaged. Large and politically powerful interests are better able to operate despite -- or in some cases because of -- the lack of regularized institutions.

In practical terms, we can look at a business transaction and analyze its institutional or governance aspects at several levels. First, a contract can set rules of the game between the parties, along with rules supplied by the state, such as the provisions of a civil code governing contracts for the sale of goods, or regulations dealing with taxes or permits. These laws and regulations may favor the entrepreneur, or they may not. At the second level, we are concerned with who makes and interprets these rules for the public, and how. If a contractual dispute goes before a judge, what procedures and rules of interpretation apply? Under what rules and influences do legislators and bureaucrats make laws and regulations that apply to the transaction? Finally, at the third level, the question arises of how judges, legislators, and administrators are constrained by a constitution and the rule of law. If legislation nullifies contracts and confiscates property without justification, can it be challenged? Are there constitutional provisions and public laws

⁵ See, Levi M and R Sherman (1995), *Rational Compliance with Rationalized Bureaucracy*, mimeo, about compliance and cooperation of bureaucracy and citizens in policy implementation.

outlining the powers of higher courts to control abuses of power by administrators and courts of first instance?

These institutions are unavoidably complex, and clearly there is much that can go wrong. If, for example, the laws and mechanisms of enforcement related to contracts are not clear, predictable, and effective, then factors of production are not likely to be used to their full economic potential. Also important is the performance of those organizations that make and implement the rules of the game. Internal standards and incentives affect how those rules are enforced -- or indeed whether they are enforced. These are provided by, for example, civil service codes, rules governing the selection and tenure of judges, and electoral laws. In addition, management practices, prevailing attitudes and traditions, as well as material conditions, are important. Chronically underpaid public servants are not likely to perform their functions optimally. Patterns of absenteeism, abuse of power, patronage, and theft can make public management, lawmaking, and adjudication unpredictable and predatory.

Institutional Maladies Corruption

The problem of corruption, like the achievement of sustained economic growth, is at heart a matter of institutions. Many poor countries have weaker institutions, therefore more corruption and weaker economic performance, than wealthier countries. Just as good governance is one of the keys to broad-based economic growth, corruption, its opposite, can deter or distort economic growth. This focus on corruption is not meant to imply that all issues of governance boil down to the problem of corruption. Governance comprises a broader set of concerns. However, it is useful and important to understand corruption as a species of governance failure -- perhaps the most important one facing many African countries today -- with especially corrosive political and economic effects.

The Role of the Office Holder

Understanding corruption as failure of governance, we can define it simply as *the abuse of public office for private gain*. While the practical focus of this volume requires us to avoid lengthy discussion of definitions, it is worth unpacking this statement for clarity's sake. One reason the extent and impact of corruption can be difficult to assess is that it depends on other variables which are themselves contestable or which change across societies.

The *abuse* involved in corruption has been formulated alternatively as legal or moral. For practical purposes, one could limit the term "corruption" to those actions by government officials which are illegal, but, this would not capture instances of government activity which one would want to prohibit. For example, in the United States and some European countries, there are extensive regulations which cover government behavior, but some of these laws encourage corruption. Examples of this include the case of the "Keating Five"⁶ in the U.S. and the laws in several European countries which permit the tax deductibility of bribes paid to foreign officials. As for the private *gain* involved in corruption, this can include both pecuniary and non-pecuniary benefits, such as when public authority is used to advance the parochial political interests of officials rather than any encompassing interest the government function was designed to serve.⁷ Such a circumstance

⁶ This incident was part of the United States savings and loan scandal of the mid-1980's. It involved a situation in which five United States Senators used their influence to stop the federal agency regulating the savings and loan industry from enforcing the law against Charles Keating, a powerful constituent who was later convicted of fraud and other violations of federal banking regulations. These violations cost the taxpayer hundreds of millions of dollars although the actions of the Senators did not appear to violate any criminal laws.

⁷ Dennis Thompson, "Mediated Corruption: The Case of The Keating Five," *American Political Science Review* (Vol 87) 1993 p 369

can include everything from the use of political office to advance the interests of a powerful constituent, to the subversion of the constitutional foundations of the political system as in the case of the Watergate Affair in the United States

Most usefully, one could express the standard contained in the above definition as *conflict of interest*. Public officials and indeed, people acting in almost every capacity have certain responsibilities which come with the role they are playing. By agreeing to serve in a certain role, people agree to serve the interests which that role was created to fulfill. When the private interests of a person occupying a certain public role conflict with the duties and responsibilities of that role, opportunities for abuse arise. In cases where public officials pursue their private interests at the expense of the public goals designated for a specific role -- such as the distribution of passports based on entitlement or the issuance of licenses to practice medicine based on qualification -- not only are those goals not met, but this failure undermines both the political legitimacy of the system and respect for the rule of law.

The standard of conflict of interest comes not from a specific legal or moral code, but a more general concept that could be called "role-differentiation". This concept is inherent in any system of governance. Indeed, while specific public roles may vary across societies and government agencies, there appears to be little variation in the obligation to fulfill those public roles even at the expense of private gain.⁸ Socially, roles are developed as follows: people enter into relationships with each other which, when routinized over time, give rise to expectations about how people ought to behave. When these relationships are generalized across society, they create group expectations about how people in a certain role are expected to act. So, in taking on a role like that of

⁸ John Noonan, *Bribes* (New York: Macmillan, 1984) pp 702-703. As Noonan points out, while the threshold for bribery may vary, nowhere is bribery of public officials sanctioned when the local standard is breached.

a public official, one accepts special responsibilities which alter obligations and duties for people who enter that role ⁹

One should be careful to distinguish corruption from other problems of fairness. A particular region or subgroup with strong political allies will sometimes win a disproportionate share of public benefits -- public works projects, for example. This is not always evidence of corruption, and in some political systems -- the United States for example -- is viewed as a necessary evil, a result of democratic political bargaining rather than corruption. On the other hand, corruption is a type of undue political or administrative influence by an individual or group -- a type of influence that oversteps the bounds of legality and legitimacy. In this sense, it is related to special interest group politics in a more general sense. The narrow interests at issue are those of political leaders and bureaucrats in augmenting their power and resources, and those of client groups seeking special favors from these public agents.

Public versus Private

The challenge to systems of governance posed by corruption is that of distinguishing *public* and *private* roles and interests. In no society has this been an easy task, and in every society the process of making and maintaining this distinction faces new challenges. The continuous emergence of scandals in the industrialized countries illustrates that no country can claim immunity from the problem. In the U.S., the Watergate and Iran-Contra Affairs saw the Office of the President and other Executive departments such as the Internal Revenue Service and the Office of the National Security Advisor become the vehicles for the pursuit of personal or partisan goals in ways that were contrary to public policy, illegal, and even unconstitutional. In each of these cases, the personal agenda of a sitting President, or at least a group of overzealous advisors, became the unstated policy, and only the

⁹ See Alan Goldman, *The Moral Foundations of Professional Ethics* (Totowa N.J. Rowman and Littlefield, 1980)

most aggressive and sustained intervention by the press Congress, and the Judiciary exposed the scandal and brought some of the key offenders to justice¹⁰

In Africa, the ferment of the late 1980's, the National Conferences of the early 1990's, and the election campaigns that followed have exposed problems of a similar kind, and in so doing provided public affirmation of the values of integrity in government. In most African countries, the earlier sense of impunity has eroded with the emergence of a freer press and political competition in some countries. Nevertheless, the problem of corruption in Africa continues to be a severe one. A host of reasons can be cited for this, including, in many cases, unresolved contradictions between public and private roles. African states have not fully emerged from the "patrimonial" or "neopatrimonial" status of the early post-independence period, in which indigenous and transplanted ideas of integrity had to compete with the opportunities for personal or class advancement offered by the state apparatus. The legacy of colonial legality, with its suppression of indigenous economic and political competition against the state, has fostered elite domination by means of the state rather than transparency and political accountability.

African governance confronts not only the problem of untangling private from public interests, but of mediating the underlying conflict between two different "publics" the "primordial" public, i.e. the indigenous sphere defined in moral, ethnic, and precolonial geographic terms, and the overlapping "civic" public, amoral and to some extent abstract, inherited from the colonial state. African elites have used the state apparatus to advance the interests of the public that really matters to them -- the

¹⁰ See Johnston (1982) at 108-137. Italy, France, Japan and Korea have also seen recent and in some cases ongoing scandals. See e.g. Alexander Stille 'Italy: The Convulsions of Normalcy' *New York Review* (June 6, 1996) p. 42, and Ruth Wedgewood, 'Stop the Greedy Kleptocrats' *Washington Post* (June 4, 1996) p. A17.

primordial public Interactions within this primordial public are characterized by a high level of integrity and responsiveness By contrast, the civic public realm carries no effective duties with it, and is the scene of elite competition over spoils ¹¹

While this problem perhaps takes on a distinctive form in Africa, it is by no means limited to Africa Parallels to the "two publics" in Africa exist in such phenomena as ethnic Chinese networks in Southeast Asia, mafias in Italy and the former Soviet Union, and urban machine politics in the United States In the case of the U S , for example, rapid urbanization and mass immigration beginning in the mid-nineteenth century gave rise to political "machines" that came to dominate city governments Weak and disorganized local governments formerly run by WASP¹² elites came under the control of new immigrant groups during the nineteenth and early twentieth century -- primarily Irish, Italian, and East European immigrants In some cases, the formal apparatus of local government remained in the hands of older elite representatives, but real decisions were in any event made informally by unelected "bosses" and implemented by means of a network based on ethnic, religious, and class identity Membership in the network or "machine" involved the exchange of blocks of votes for the machine's formal political representatives for favors that advanced the interests of machine members -- government contracts, public sector employment, a certain level of public services, and the "fixing" of various problems including regulatory procedures and criminal liability In some cases, demographic shifts and competition led to the machine's transfer into the hands

¹¹ Peter P Ekeh, "Colonialism and the Two Publics in Africa A Theoretical Statement" *Comparative Studies in Society and History*, January 1975, pp 91-112

¹² White Anglo Saxon Protestants -- descendants of the earliest European settlers

of new factions or ethnic groups¹³

The vestiges of urban machine politics continue in existence today, although this has been severely constrained as a result of changes in local electoral systems, "good government" campaigns, local government and civil service reforms, high-profile prosecutions, and interventions by the federal government. The point here is that American urban politics and administration demonstrates the transition from patrimonialism based on a form of solidarity akin to the African "primordial public" to a more transparent system that is to a greater extent disciplined by the law and responsive to the demands of the "civic public." A series of institutional reforms have been adopted that enable a vigilant public and its representatives to police the boundary between officials' public and private roles, to limit discretion and monopoly power, and hence to control abuses of office more effectively. Despite progress in this area, local government remains among the areas of American public life most susceptible to corruption. The struggle continues.

Controlling Corruption

This chapter, by way of introduction, has largely been devoted to defining *what corruption is*. The succeeding chapters will provide some more detail through analysis and examples. The chief aim of this volume, and the subject that will be the predominant concern in what follows, is *how to analyze corruption and attack it effectively*. This requires us to address the following questions: Why is it urgent to begin combatting corruption now? What causes corruption? How have some societies dealt with it successfully? How can those experiences be applied across Africa?

This analytical process begins with a fundamental premise,

¹³ Michael Johnston, *Political Corruption and Public Policy in America* (Monterey, CA: Brooks/Cole Publishing Company, 1982) at pp. 36-68.

which we introduce at this point, and which will surface throughout the volume. The institutional failures that encourage corruption have a common underlying logic. This logic, as proposed by Robert Klitgaard, is as follows: *corruption equals monopoly plus discretion minus accountability*, or stated as a formula, $C = M + D - A$ ¹⁴. The key element of accountability refers to the extent to which government officials are subject to oversight and held to a standard, information is available to measure performance against the standard, and as a result discretion has limits. This way of analyzing corruption is sometimes called the *principal-agent model*, since it enables one to evaluate the behavior of public officials as agents of a higher authority or principal -- i.e. an immediate supervisor, the chief of state, or the citizenry.

The remainder of the formula refers to the tasks that the government takes on and the way in which the public service is organized. Keeping monopoly in the provision of public services to a minimum, and creating incentives for good bureaucratic performance and public monitoring helps reduce opportunities for corruption. Good governance therefore depends in large part on limiting the tasks of government, providing the appropriate incentives and resources, and instilling an ethic of professionalism and public service. Organizations that consistently fail to provide the appropriate incentives, and which prey on the public, have been described as "sick". The importance of this formulation is its acknowledgement that individual integrity is sorely challenged in an environment of endemic corruption, and that the first priority for action should therefore be to change the organizational culture and incentive structure from top to bottom.¹⁵

Building on this analytical foundation, the following chapters provide concepts, examples, methods, and other tools that

¹⁴ See Section 2.2 below

¹⁵ See Section 2.2 below

are relevant to the situations of many African countries and that can be applied, or at least adapted, to governance issues of concern to African policymakers and publics. They are offered in the hope that they might furnish both a guide and an encouragement to action against corruption.

Chapter 2: Understanding Governance Challenges

While the previous chapter provided an overview of the thinking in this volume, this chapter aims to deepen understanding of the institutional analysis of corruption and its causes and consequences, focusing primarily on problems specific to Africa. The first essay presents the economic and political consequences of corruption, which include inefficiencies, distortions, heightened inequalities, and the loss of governmental legitimacy. Understanding these harms is essential for bringing the necessary urgency and focus to the tasks of combatting corruption. The second essay analyzes corruption as an outcome of the broader phenomenon of "sick institutions" -- where systems of information, incentives, and oversight have broken down. This enables us to bracket the dimension of personal ethics involved in corruption, which is as intractable as it is important, and focus on systems and institutions. Corruption, though it is committed by individuals, takes place in an institutional context, and it is this context that determines what opportunities arise that could tempt a bureaucrat or politician to engage in corrupt behavior. Finally, building on the economic and institutional reference points provided earlier, the last essay offers an overview of the types and systemic origins of major corruption problems occurring in Sub-Saharan Africa. It fits the preceding analysis within the context of current events in Africa. As a whole, the chapter helps identify the most important challenges to governance posed by corruption in Africa, and offers approaches to the analysis of their causes, consequences, and potential solutions.

2.1 Economic and Political Consequences of Corruption¹

This section addresses the larger stakes involved in the issue of corruption. What is its impact? Why should we be concerned about it? It is critically important to be specific about the stakes, and to analyze the relative costs of the various forms of corruption. Only on this basis can resources be targeted to combat the most damaging forms of corruption, and only with the most complete information can skepticism and inertia be overcome. The impact of corruption is not limited to the size of the payments involved. In addition to the payments, the very process of extorting and giving bribes has distortionary effects that are both economic and political.

Economic Consequences of Corruption

There is some debate whether corruption is a serious problem or even undesirable. African countries are commonly cited as examples of the high cost which corruption inflicts on economic growth. However, some South East Asian economies are perhaps among the most corrupt in the world, and yet many of them have achieved spectacular economic growth. Some authors have argued that some corruption might be desirable and enhance economic

¹This section is largely based on Susan Rose-Ackerman's paper prepared for the Dakar IRIS/USAID conference entitled "Good Governance and the Regional Economy in Francophone Africa"

growth² If corruption was a serious impediment to economic growth, they say, it would be difficult to explain the extraordinary success of South East Asian economies

Most authors, however, have challenged these views Their arguments can be divided into three types of economic impacts, according to corruption's effects on growth, on private sector development, and on administrative efficiency and public sector projects

Macroeconomic distortions and barriers to growth

- * *Corruption does not alleviate the effect of existing administrative distortions*, as some authors have suggested Most research points to the fact that such a view presumes that a given set of distortions, like bureaucratic delays, are mitigated or circumvented by the effects of corruption However, those distortions and the corruption are often caused or at least preserved by the same factors³ Hence, corruption is no cure Instead, corruption itself distorts the economy Corruption would thus, at the very least, only replace one distortion with another, and worse, it could multiply the impact of existing distortions on

² See, for example Leff N (1964), "Economic Development through Bureaucratic Corruption", *American Behavioral Scientist*, Huntington S (1968), "Political Order in Changing Societies", Yale University Press, and Nye J (1979), "Corruption and Political Development A Cost Benefit Analysis" in *Bureaucratic Corruption in Sub Saharan Africa Causes Consequences and Control*, ed Ekpo University Press of America

³ See P Bardhan, "*The Economics of Corruption in Less Developed Countries A Review of Issues*", 1995 (mimeo)

the economy

- * *Corruption has a more distortionary impact on the economy than taxation,*⁴ because of the need to keep corruption secret Efforts to avoid detection and punishment cause corruption to be more distortionary than taxation

- * *Corruption slows down investment and economic growth,* even in countries in which bureaucratic regulations are very cumbersome⁵ Corruption hinders investment and growth in at least three ways
 - a Unlike regular contracts, bribery contracts are not enforceable,⁶ since they are not secured by formal property rights -- the "seller" is exchanging goods or services that are not his property⁷ Normally, when firms pay

⁴ See A Shleifer and R Vishny, 'Corruption' *The Quarterly Journal of Economics*, 1993

⁵ See P Keefer and S Knack (1993), "Why Don't Poor Countries Catch Up? A Cross-National Test of an Institutional Explanation", IRIS Working Paper Series No 60, P Keefer and S Knack (1994) "Institutions and Economic Performance Cross-Country Tests Using Alternative Institutional Measures", forthcoming in *Economics and Politics*, P Mauro (1995) "Corruption and Growth" *The Quarterly Journal of Economics*, and S Borner, A Brunetti, and B Weder (1995), "Political Credibility and Economic Development"

⁶ M Boycko A Shleifer, and R Vishny, *Privatizing Russia* (Cambridge MIT Press 1995)

⁷ A Shleifer (1994), "Establishing Property Rights" in Proceedings of the World Bank Annual Conference on Development Economics

government agencies for a specific good or service, the delivery of the good or service can be enforced. In the case of corruption, once a firm has paid an illegal payment, the official who has accepted the bribe may be unable to guarantee the delivery of the expected good or service since other officials can intervene and demand a bribe for the provision of the same good. There is also no guarantee that the official will not accept the bribe and renege on the contract. In both cases, there is no formal enforcement mechanism for the firm.⁸

- b Because bribery contracts between government officials and businessmen are not governed by formal property rights and are therefore not enforceable, they are subject to substantial uncertainty which will hinder investment. Empirical studies indicate that insecure property rights will lead to increased uncertainty for potential entrepreneurs, which will deter both domestic and foreign investment and, thereby, economic growth.⁹

⁸ Depending on how corruption networks are organized, there may be informal mechanisms through which corruption contracts can be enforced. However, because of the need for secrecy, the existence of such mechanisms is limited.

⁹ D. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990), C. Clague, P. Keefer, S. Knack, and M. Olson (1995), "Contract-Intensive Money, Contract Enforcement, Property Rights and Economic Performance", IRIS Working Paper No. 151.

- c Corruption crowds out productive investment and slows down growth, since high bribes make rent-seeking lucrative compared to investment and production. High bribes imply declining profitability on productive investments relative to rent-seeking activities. There are increasing returns to rent-seeking so that an increase in rent-seeking lowers the cost of further rent-seeking relative to that of productive investment¹⁰. In this way corruption tends to feed itself. As a result, as the returns to entrepreneurship fall, investment and innovation decline and growth slows down.

Although no definitive evidence exists, given all the consequences of corruption, there are good reasons to suspect that even in high-growth economies in South East Asia, corruption is both unfair and inefficient. The fact that these economies grow is no confirmation that corruption is of no consequence. Corrupt economies can grow, as long as corruption has not gone so far as to undermine economic fundamentals¹¹.

¹⁰ K. Murphy, A. Shleifer and R. Vishny, "Why is Rent-Seeking so Costly to Growth?", *American Economic Review*, 1993, and J. Andvig and K. Moene "How Corruption May Corrupt", *Journal of Economic Behavior and Organization*, 13 (1990).

¹¹ *Id*

Inefficiency and favoritism in the private business sector

- * *Corruption raises the cost of doing business*
Officials may introduce delays and unnecessary requirements to force the transfer of bribes,¹² raising firms' costs, in addition to the monetary value of the corrupting payment

- * *Corruption discourages new ideas and innovations*
Innovators are particularly at the mercy of corrupt officials, since new producers need government permits and licenses more than the established ones. The need to pay bribes acts as an entry barrier, increasing the start-up costs of new firms¹³. This discourages entrepreneurship and innovation and biases investment decisions

- * *Corruption promotes inequality among firms*¹⁴
Corruption reinforces economic and political disparity by distributing public goods according to political power and connections, rather than according to innovative capacity. To minimize the risk of detection of corrupt deals, government officials tend to favor individuals and established firms with

¹² G Myrdal, *Asian Drama*, Vol II

¹³ A Stone (1994), "Complex Transactions Under Uncertainty: Brazil's Machine-Tool Industry". World Bank Policy Research Working Paper No 1247, Murphy et al., "Why is Rent-Seeking so Costly to Growth?", and P Keefer and S Knack, "Why Don't Poor Countries Catch Up? A Cross-National Test."

¹⁴ See for example, Robert Klitgaard, *Controlling Corruption* (Berkeley: University of California Press, 1988)

connections This leads to the formation of small elite groups which amass wealth and control the markets The entry of innovative entrepreneurs who lack connections and funds will be effectively barred¹⁵ Hence, rather than empowering disenfranchised groups and supporting new entrants, corruption serves to reinforce economic and political inequalities

- * *Corruption leads to a reduction in the quality of products* If bribes are paid to induce regulatory officials to overlook dangerous conditions or to permit firms to reduce quality, the consumers' choice may be distorted toward low-quality products¹⁶
- * *Corruption diverts funds from investment and other productive activities* Firms pay bribes out of funds intended for investment, while officials tend to divert the payoffs into consumption, illegal activities or foreign bank accounts because of their illegality¹⁷

¹⁵ See M Alam, "Some Economic Costs of Corruption in LDCs," *Journal of Development Studies* (1990) and Shleifer A and R Vishny "Corruption "

¹⁶ See Susan Rose-Ackerman (1996), *The Political Economy of Corruption--Causes and Consequences* Viewpoint No 74, The World Bank

¹⁷ Id

Inefficiency in administrative operations and public sector projects

- * *Corruption leads to too large and too numerous government projects if bribe revenues increase with the size and volume of procurement*¹⁸

- * *Corruption promotes public projects that exhibit too high a level of technical complexity* To improve possibilities for over-invoicing and kickbacks and minimize the risk of detection, the government may import complex technology or goods instead of standardized, local, but possibly more appropriate, technology or goods. Detecting improper valuation or over-invoicing of complex technology or goods is more difficult than of standardized ones, since the prices of non-standardized goods are less likely to be commonly known¹⁹

- * *Corruption raises the cost of government projects* Government contracts and concessions may not be allocated to the most efficient bidders. The most efficient firm could be willing to pay the highest bribe, but decision-making officials may not award the contract to the highest bribe offeror, since they may be influenced by considerations other than just the size of the bribe -- for example, favoritism for a

¹⁸ Id

¹⁹ A Shleifer A and R Vishny, "Corruption "

particular client or nepotism²⁰ Also, the most efficient firm may be honest, refuse to pay bribes and, therefore, not get the contract Case studies from around the world indicate that illegal payoffs can increase the cost and lower the quality of public works projects by as much as 30 to 50 percent²¹

* *Corruption reduces the quality of public sector projects* The quality of projects may suffer if contractors make payoffs to be allowed to cut corners²²

* *Corruption may lead officials to cause additional administrative delays in order to attract bribes*²³ In addition, the negative effects of corruption have been shown to override the efficiency gains from increased work efforts of those officials receiving bribes

²⁰ See P Bardhan, "The Economics of Corruption in Less Developed Countries A Review of Issues

²¹ R. Wade 'The System of Administrative and Political Corruption Canal Irrigation in South India' *Journal of Development Studies* (1982) and L Manzetti and C Blake Market Reforms and Corruption in Latin America New Means for Old Ways," *Review of International Political Economy* forthcoming

²² See Susan Rose Ackerman, "The Political Economy of Corruption--Causes and Consequences "

²³ See G Myrdal, '*Asian Drama*', vol II (New York Random House 1968)

Political Consequences of Corruption

The economic consequences detailed above have political corollaries. Some of these effects are either mentioned or implied in the discussion in chapter one, and are developed throughout this volume.

- * *Corruption leads to a loss of faith in the government and non-compliance with laws and regulations.* Economic development requires not only sound economic policies but also compliance and cooperation of government officials and citizens in implementing these policies. Citizen compliance is more frequent where government officials are competent, impartial and non-predatory. Where officials are incompetent and corrupt, compliance is seldom the optimal strategy for citizens, since bribery and illegal activity yield higher rewards. Non-compliance leads to additional waste and misallocation of resources, since both concealment of illegal practices and enforcement of the law are costly.²⁴

- * *Corruption undermines the legitimacy of governments.* When a public official pursues his/her own interest, in direct conflict with the interests attached to the public function, the balance of authority both among government entities and between state and civil society is effectively

²⁴ See M. Levi and R. Sherman (1995), "Rational Compliance with Rationalized Bureaucracy," 1995 (mimeo).

damaged²⁵ The impacts of these conflicts undermine the legitimacy of state institutions. If the general population assumes that government officials are not bound by the restraints of their public functions, its incentive to bear the heavy cost of obedience to the law will be affected accordingly.

* *Corruption undermines democratic values and political equality* Corruption discriminates against those who are poorer and have less access to political power by basing entitlements on political patronage rather than legal rights²⁶ The high incidence of corruption in non-accountable governance structures has led some political scientists to suggest that corruption emerges in these systems as a functional or institutional response that compensates for the exclusion of some groups from political participation²⁷ But the evidence of East and Central Europe and the former Soviet Union suggests the reverse, that is, corruption has reinforced political and economic disparity by distributing public goods and services according to political power or connections²⁸

²⁵ D Thompson *Political Ethics and Public Office*, (Cambridge Harvard University Press, 1987)

²⁶ Michael Johnston, "Public Officials, Private Interests, and Sustainable Democracy: Connections Between Politics And Corruption" (Delivered to Conference on Corruption in the World Economy) April 16 1996 Washington DC

²⁷ Samuel Huntington, *Political Order In A Changing Society*, (New Haven Yale University Press 1968) pp 59-71

²⁸ See Robert Klitgaard, *Controlling Corruption*, p 41

These political effects are less quantifiable than economic harms. However, if one bears in mind the importance of governance institutions to stability as well as economic performance, then the wide ripple effects of erosion in the political order become clear.

2.2 Causes of Corruption

A useful way to think about corruption (and its cures) is to envision it as a symptom of "sick institutions." What are they? Let's get at this first through a chilling scenario that is likely to strike many African readers as familiar. It comes from Bolivia. A more analytical discussion will follow.

La Paz, September 1985²⁹

Few municipal officials will face situations as extreme as the one encountered by Ronald MacLean-Abaroa when he took over as mayor of La Paz, Bolivia. Yet as his story has been related to officials in other countries, listeners have responded with knowing smiles.

On September 13, 1985, I was sworn in as the first democratically elected mayor of La Paz since 1948. I knew I would be facing a difficult task, but I never imagined how grave the situation was. I quickly

²⁹ Prepared by Prof. Robert Klitgaard with the assistance of Mayor Ronald MacLean-Abaroa. March 1996. ©Robert Klitgaard. All rights reserved.

discovered that I had better find someone to loan me money to survive into the next month, because my new salary was the equivalent of less than US\$100 per month. Not only that, I would find it almost impossible to form my immediate staff since they would be paid even less. At the end of that day, I boarded the mayor's vehicle, a decrepit 1978 four-wheel drive, to return home, wondering if I had not fallen into a trap from which it was impossible to escape, short of resigning from my first elected office.

The idea that radical change was essential turned out to be my savior. I was facing a limiting case. Bolivia was still in the midst of its worst economic crisis ever. The former President had to cut his term short and leave office before being driven from it by the army, the people, or most likely a combination of both. Though an honest President, he was unable nonetheless to reverse the economic collapse. Inflation in August had reached an estimated annual rate of 40,000 percent.

The next day I returned to my office, wondering where to start my reforms. The four-wheel drive had broken down and I had to drive to work in my own car. While parking in front of city hall, I noticed that there among the crippled vehicles were two conspicuously fancy cars. One belonged, I later learned, to a foreign expert working with the municipality. The other, an elegant sedan, belonged to the cashier of city hall. I had my first hints of where the resources were.

The cashier was a fifth-class bureaucrat with a minimal salary who, I came to know, had the habit of

changing several times a week which car he drove to work. He made no secret of his obvious prosperity. In fact he had taken the habit of offering loans to the impoverished municipal employees, including some of his superiors, charging a “competitive” weekly interest rate.

Later, up in my office, I developed a deep sense of solitude. Accustomed to working in the private sector, where I managed fair-sized mining companies, I was used to working with a team. In my newly elected post, there was nothing that resembled a team. All the people I found looked and acted more like survivors of a wreck than anything else. The professional staff was earning an average of about US\$30 per month. Many employees were anxiously seeking alternative sources of income to bring home. Corruption, if not always at the scale of the cashier, was everywhere.

Bolivia had just had a change of government at the national level, and the new administration was from a different party than my own. I would not be able to count on support from the national government, as had been customary in the recent past when mayors were appointed by the President and subsidized by the national treasury. New laws meant that cities were on their own financially, and I learned that in two weeks I would have to meet a payroll that was worth more than the total monthly revenues of La Paz! Part of this was due to the hyperinflation and the changes in federal support. But part of it, maybe a lot of it, was due to corruption.

I found many signs of malignancy in the municipality. The degree of institutional decay was such that authority

had virtually collapsed in the municipality. Everyone was looking for his or her own survival in terms of income generation, and therefore corruption was widespread. Tax collectors used techniques ranging from extortion to speed money to arrangements for lower taxes in exchange for a bribe. Property taxes were particularly vulnerable to collusion between taxpayers and corrupt officials. A new assessment was needed as the result of the hyperinflation and a legion of municipal functionaries was ready to hit the streets, meet property owners, and "negotiate" a property value that would suit both owners and functionaries well, but one far below the true value. The result would be a tax saving for the property owners, particularly the rich, a bribe for the colluding functionary, and a city unable to provide services because it lacked even minimal resources.

The city government was in effect a huge "construction company" that wasn't constructing much. The city owned tractors, trucks, and all kinds of construction machinery. There were two thousand city laborers, who were paid meager, fixed salaries and were only coming to work an average of five hours a day. Machinery was also used for a similar amount of time, rendering it extremely inefficient given its high capital cost. But I found that the use of gasoline, oil, and spare parts was abnormally high. Surely they were being sold in the black market, I thought, and soon this suspicion was sadly verified. New tires and expensive machinery parts such as fuel injectors, pumps, and Caterpillar parts were available for sale and in exchange broken and used parts were "replaced" on the city's machinery.

*Finally, there was the municipal police, a “soft police” that didn’t conduct criminal investigations or carry arms but was responsible for regulating the informal sector, inspecting the markets for cleanliness, and keep order among the city vendors. This, too, was a source of corruption, as the municipal police would extort money in exchange for letting vendors undertake both legal and illegal activities*³⁰

Sick Institutions³¹

Some readers will have been in positions not unlike Mayor MacLean-Abaroa’s. As in Bolivia, the problems facing many countries in Africa go beyond economic liberalization and beyond multi-party democracies, welcome as these are. The task is now how to heal the sick institutions that plague our public and private sectors.

Development strategies are shifting from policy reform to institutional reform. As we learn that economic policy reforms aren’t enough for economic success, that multi-party democracy is not enough for political success, that better laws aren’t enough for better justice, we focus on the institutions through which economic, political, and legal activity are carried out and mediated.

If the past fifteen years were notable for macroeconomic and macropolitical reforms, the next fifteen years will be the

³⁰ See the case study in Part 3.4 below for an analysis of the policy response to this scenario.

³¹ The remainder of this section is based on a paper by Robert Klitgaard prepared for the IRIS/USAID workshop in Senegal.

era of *institutional adjustment*

- In the private sector, not just the declaration of “competitive markets,” but the improvement of market institutions, especially vis-à-vis the poor
- In public administration, not just (or even) less government and fewer employees, but systems of information and incentives which encourage productivity, decentralization, and participation and which discourage rent-seeking and abuse
- In democratic policies, not just multi-party elections, but limits on campaign financing, legislative reform and strengthening, and improvements in local governments
- In legal systems, not just better laws and constitutions, but also systematic initiatives to improve the honesty and capacity of police, prosecutors, and judges

These topics are obviously sensitive and context-specific, and there is less agreement internationally or in Francophone Africa about the nature of the reforms to be pursued, compared with, say, the move to multi-party democracy. But the dynamics of reform in this area will not require that all countries agree to the same agenda—or even that all participate. The problem will be less and less how to persuade sovereign governments to “do something” about institutional development but *how* to do it. The new wave of democratically elected governments in the developing world is recognizing that neither free markets nor multi-party democracies will succeed if the institutions of the private and public sectors are riddled with institutional failure. And as a few countries make progress, others will follow.

But what exactly are these “institutional failures” to which “institutional development” is the alleged answer? In this volume we focus on public sector institutions. We may usefully distinguish *inefficient institutions* that do not fulfill their purported aims of service delivery, fair judgment, and efficient allocation, from *sick institutions*, a phenomenon prevalent in though not confined to Africa, the former Communist world, some parts of Asia and some parts of Latin America and the Caribbean. It is provocative to speak of sick institutions, also indelicate to indicate their geographical concentration. But this distinction is not meant to be sensational. It is amazing that more people outside the countries affected do not seem to put sick institutions front and center.

Sick institutions are those where a substantial number of employees do not come to work or do other work (or nothing at all) while there, where corruption and favoritism are not isolated instances but the corrosive norm, where pay scales in real terms have collapsed so that low- and middle-level employees cannot feed and house their families on their official pay, where employees therefore seek other forms of compensation, including travel, study allowances, non-wage benefits (which have exploded in many countries) as well as illicit payments for doing (or not doing) their public duties.

These observations will undoubtedly sound familiar to many readers. Through their daily experiences, they know that sick institutions do not function. (Let's leave aside here a second category of sick institutions, those that function effectively but serve ends that are sick—for example, an apartheid state, a military apparatus, a secret police, perhaps in the view of some readers some transnational economic institutions.) Public service becomes a source of public

embarrassment, or indignation. In many countries, both multiparty democracy and free-market reforms, such as they are, are threatened not just by inefficiency in government, but by institutions that have grown sick.

Why are there sick institutions?

- Incentives in many countries have collapsed. Real wages in the public sector have fallen radically since the early 1970s.³² One World Bank study estimates that in 1983 real wage rates for “highly skilled” members of the civil service were 11 percent of what they were in the mid-1970s in Ghana, 5 percent in Uganda, 30 percent in Nigeria, and 45 percent in Zambia.³³ Another study found that as a percentage of the 1975 figure, in 1985 the base civil service salary rate at the “highest grade” was 4 percent of what it was in 1975 in Somalia, 16 percent in Sierra Leone, 19 percent in Tanzania, and 22 percent in Nigeria.³⁴ All of the 15 countries surveyed by Robinson fell below 60 percent of the figure a decade before. Eliot Berg’s review found that government wage bills divided by the number of employees “tend to show sharp reductions during the 1980s—40 percent is not an uncommon rate of decline over the

³² Robert Klitgaard, “Incentive Myopia,” *World Development* 17, 4 (1989).

³³ Barbara Nunberg and John Nellis, *Civil Service Reform and the World Bank* (Washington, DC: The World Bank, 1995).

³⁴ D. Robinson, *Civil Service Pay in Africa* (Geneva: International Labour Office, 1990).

decade”³⁵ Using more recent data at the national level, Ul Haque and Sahay confirm the plummeting salary levels in African countries ³⁶ Although perks and non-wage benefits for government employees tended to rise to compensate partly for this decline, “government salary levels at the beginning of the 1990s were so low that many civil servants viewed them as inadequate to meet customary needs” ³⁷

- Moreover, incentives are also weak in the sense that good performance goes relatively unrewarded and bad performance relatively unpunished Salary compression has grown In Ghana, one study found that in the late 1980s the average pay for “highly responsible jobs at the upper levels of the civil service was only two to three times as high as average pay in the lower skill categories” ³⁸
- Information and evaluation are scarce and expensive, which inhibits internal and external controls
- Information-processing skills are weak at both the

³⁵ Eliot Berg, *Rethinking Technical Cooperation Reforms for Capacity Building in Africa* (New York: United Nations Development Programme, 1993)

³⁶ Nadeem Ul Haque and Ratna Sahay 'Do Government Wages Close Budget Deficits? A Conceptual Framework for Developing Countries and Transition Economies,' (Washington, DC: International Monetary Fund, 1995--unpublished preliminary draft)

³⁷ Berg *Rethinking Technical Cooperation* (1993) p 204-207

³⁸ Berg *Rethinking Technical Cooperation* (1993), p 207

individual and institutional levels, due for example to low levels of education and few computers, as well as relatively few specialists such as accountants, auditors, statisticians, and so forth

- Political monopolies dominate, sometimes coupled with violence and intimidation
- Countervailing institutions are weak, in part because of information and incentives problems but also because of hostile actions by the state
- Some governments face a soft budget constraint, meaning that foreign aid will fill a good part of any deficiency due to inefficiency or corruption

Institutional Adjustment

Note that sick institutions can be analyzed in economic terms, without immediately invoking other factors that may be important such as political leadership, social and cultural features, and so forth. Economics also provides insights about possible solutions, which must be tailored to local political, social, and cultural realities³⁹

Yet economics has not been the metaphor through which international aid has usually conceptualized “institutional development.” In the decade ahead we will rethink institutional development in economic terms, based

³⁹ See Section 2.1 of this chapter for a discussion of the economic stakes of corruption

on information, incentives, and organizational structure. The principles of institutional adjustment will include

- Enhance information and evaluation. Put it in the hands of clients, legislators, and those with official oversight (regulators, auditors, judges, etc.)
- Improve incentives. Link incentives to information about the attainment of agreed-upon objectives.
- Promote competition and countervailing forces—including the institutions of civil society, the media, the legislature and the courts, and political parties—and procedures that allow these different interests and voices to make a difference in policy and management.
- Systematically attack systematic corruption.
- Harden the budget constraint. One possibility is to reduce foreign assistance. Another is to make aid contingent on progress in institutional adjustment.

This approach contrasts with previous approaches to institutional development based on *more*—more training, more resources, more buildings, more coordination, more central planning, and more technical assistance. The argument is that *without institutional adjustment*, “more” won’t heal sick institutions.

Unfortunately, none of us have doctorates in how to heal sick institutions. And yet many of us confront “patients” that are gravely ill—the institutions in which we work, perhaps, or those that we regulate. The task is first to face up

to the seriousness of our endeavor, and move beyond simple bromides such as “let the market do it” or “more of the same” Then, guided by success stories and by new work in the social sciences, we must experiment together with new cures for sick institutions

Restricting Opportunities for Corruption

Corruption is but one of the manifestations of institutional decay In the remainder of this section we focus on the systemic causes of corruption

The catalogue of corrupt acts, which may be defined as instances of misuse of office for unofficial ends, includes bribery, extortion, influence-peddling, nepotism, fraud, speed money, embezzlement, and more Although we tend to think of corruption as a sin of government, of course it also exists in the private sector Indeed, the private sector is involved in most government corruption

Different varieties of corruption are not equally harmful Corruption that undercuts the rules of the game—for example, the justice system or property rights or banking and credit—devastates economic and political development Corruption that lets polluters foul rivers or hospitals extort patients can be environmentally and socially corrosive In comparison, some speed money for public services and mild corruption in campaign financing are less damaging

Of course the extent of corruption matters, too Most systems can stand some corruption, and it is possible that some truly awful systems can be improved by it But when corruption becomes the norm, its effects are crippling So,

although every country has corruption, the varieties and extent differ. The killer is systematic corruption that afflicts the rules of the game. It is one of the reasons why the most underdeveloped parts of our planet stay that way.

What to do about systematic corruption? Both multi-party democracy and free-market reforms will help. Both enhance competition and accountability, and these in turn tend to reduce corruption. But democracy and freer markets are certainly not sufficient.

Corruption tends to follow a formula

$$C = M + D - A$$

Corruption equals monopoly plus discretion minus accountability. Whether we are in La Paz, Lilongwe, or Los Angeles, we will tend to find corruption when someone has monopoly power over a good or service, has the discretion to decide whether or not you receive it and how much you get, and lacks accountability.

In such an institutional context, and especially in particularly vulnerable areas of government, corrupt behaviors can develop as a response to specific opportunities. Transparency International identified the following areas as ones where corruption is most likely to flourish:

- * public procurement
- * rezoning of land
- * revenue collection
- * government appointments

- * local government⁴⁰

In these areas, but by no means in these areas only, illicit payments are generally paid for two reasons to obtain government benefits or to avoid costs

Pay to Get a Benefit⁴¹

The government is a buyer and a seller of goods and services as well as a distributor of subsidies. This creates incentives for firms to bribe government officials. The incentives to bribe officials include the following

- * to be included in the list of bidders
- * to be selected as the winning contractor
- * to have officials structure bidding specifications so that the firm is the only qualified supplier
- * to obtain information such as bidding specifications
- * to be allowed to over-invoice for services or to reduce the quality of services
- * to be judged qualified for a public benefit or to be selected to receive a scarce benefit

These opportunities may arise in the allocation of all kinds of public goods and projects, from social security benefits to privatization projects

⁴⁰ Transparency International, *A National Integrity Source Book for Building More Transparent and Accountable Government* (Draft 1995) p 11

⁴¹ Susan Rose-Ackerman, 'An Economic Perspective on Corruption,' paper presented at Dakar IRIS-AID conference March 1996

*Pay to Avoid Costs*⁴²

The government also imposes regulations, levies taxes, and enforces laws. As it carries out these functions, government officials may delay and harass firms and individuals they deal with, and they can impose costs selectively in a way that affects firms' competitive positions. Under these circumstances, a firm may have the following incentives to bribe officials:

- * to get a favorable interpretation of the rules or to get a discretionary judgment in its favor
- * to avoid or reduce taxes
- * to avoid administrative delays
- * to avoid law enforcement
- * to have officials restrict the entry of competitors

It is important to note that as the economy grows and economic opportunities increase, the opportunities for corruption may also expand. The emphasis is commonly--and rightly so--on the impact of corruption on the economy. However, growth may also influence corruption.

The Impact of a Large Public Sector

The scope of possible corrupt behavior, as defined in this volume, coincides with the range of public goods administered by officials. In most societies, these would include legislation, adjudication, licenses, and tax collection, for example, but in command economies, this would, of course, also include the means of production. Where goods and means of production are in private hands, owners have an

⁴² Id

incentive to protect them through such things as security measures and insurance, and will place them in others' hands only where relationships of trust or contract reduce the risk of opportunism and loss. However, where goods and means of production are publicly owned, the risk is spread across an entire polity, and therefore the incentives of individuals to act in order to police and protect public property is correspondingly diffused.

Protecting the public's interests depends on governance mechanisms -- accounting standards, tendering procedures, auditors, separation of powers, and accountability to the public. The task of governance mechanisms is large enough even when the role of government is limited to little more than policymaking and revenue collection. Where it is broader and includes a large element of public ownership of economic enterprises, the stresses on public officials grow exponentially, and the ability of governance mechanisms effectively to control quality and impose accountability wears thin. In these circumstances, the public service can become both encrusted with bureaucratic special interests and hobbled by inadequate resources.

The later history of the Soviet Union illustrates this problem in a general, but dramatic, way. The command economy required economic planners to gather and respond to huge amounts of information -- information which in a private sector economy would be processed by market signals. This information-processing function was far beyond the capacity of the state to handle. Especially when the widespread use of terror subsided after Stalin's death, producing and consuming units of the public sector were able to collude to withhold information from their superiors. For example, when technological or managerial advances

improved productivity, state enterprises might withhold this information from economic planners in order to pocket the windfall through black market transactions or other means. Public accounting and subsidy practices applicable to state enterprises, now known as the "soft budget constraint," allowed this behavior to reach epidemic proportions and hastened the demise of the Soviet economy. In the absence of private property, the autocratic head of state had essentially the only direct interest in making the system function without corruption -- but the vast scope of the system and the erosion of deterrence made this task impossible.⁴³

Many societies have experienced this syndrome in some way. Developing countries, including African nations, often have very large state sectors where mechanisms of accountability are ineffective and institutions have become "sick." In these situations, numerous opportunities for corruption arise. Economic actors confronting a failing and predatory public sector will seek opportunities to advance and protect their interests. As discussed above, they will provide bribes or favors to obtain government benefits or to avoid costs to themselves. The way out of this trap is to find means of limiting the tasks of government in a way that ensures accountability.

Addressing the Problem

Corruption is a crime of calculation, not passion. True, there are saints who resist all temptation, and honest officials who resist most. But when the size of the bribe is

⁴³ Mancur Olson, *Capitalism, Socialism and Dictatorship* (draft manuscript, 1996) at pp 94-130

large, the chance of being caught small, and the penalty if caught meager, many officials will succumb. Solutions, therefore, begin with systems. Monopolies must be leavened. Discretion must be clarified. Accountability must be strengthened. The probability of being caught must increase, and the penalties for corruption (both givers and takers) must rise. Incentives must be linked to performance.

Each of these headings introduces a vast topic, of course, but notice that none immediately refers to what most of us think of first when corruption is mentioned—new laws, a change in mentality, an ethical revolution. Laws and ethics codes prove insufficient when systems are not there to implement them. Moral awakenings do occur, but seldom by the design of our public leaders. If we cannot engineer incorruptible officials and citizens, we can nonetheless foster competition, change incentives, enhance accountability—in short, fix the systems that breed corruption.

This is not easy. But three points deserve emphasis. First, successful examples do exist of reducing corruption, at the level of firms, cities, projects, ministries, and entire countries. Second, many of these success stories contain common themes. Third, the fight against corruption can be the leading edge to much broader and deeper reforms of government.

How do these concepts help us understand the specific conditions of corruption on the African continent? The last section of this chapter applies our analysis of systemic causes and consequences generally to problems of corruption in Africa.

2.3 Corruption in Africa⁴⁴

What is the phenomenon of corruption in Africa? It takes many forms and occurs at several different levels⁴⁵ "Incidental" corruption occurs at the level of opportunistic individuals or small groups. It can be seen in the unplanned solicitation and acceptance of bribes--policemen erecting roadblocks to extract payments from drivers, underreporting of taxes, embezzlement, etc. Such small scale, petty bribery is widespread in West Africa. Although the gains or rewards are typically small, in the aggregate it may be quite costly, and is an irritant for the many who are affected.

"Systematic" corruption is not as random, usually involves large gains, and is often associated with popular scandal. For example, the 1975 Nigerian cement scandal involved public officials and middlemen who embezzled huge sums of money, and eventually led to a government purge. Systematic corruption can become entrenched and involve very large numbers of corrupt officials, intermediaries and entrepreneurs. Smuggling exports, for example, is extensive in many African countries despite the presence of customs officials. The ease with which regulations can be contravened is well known. In Tanzania,

⁴⁴ This section is based in large part on a text supplied by Sahr John Kpundeh.

⁴⁵ For a detailed discussion of levels of corruption see for example Stephen P. Riley 'The Land of Waving Palms: Political Economy, Corruption, Inquiries and Politics in Sierra Leone' in *Corruption: Causes, Consequences and Control* edited by M. Clarke, London: Frances Pinter, 1983.

especially in the late 1980s, business people in collusion with public officials regularly defrauded the government by purchasing non-existent goods⁴⁶ Patterns of systematic corruption can be associated with both compliant bureaucrats and key political actors Kwame Nkrumah of Ghana, Siaka Stevens of Sierra Leone, Mobutu of Zaire, are all examples of corrupt senior political figures, and evidence of their malfeasance has been uncovered through investigative inquiries, and in the case of Mobutu, his own public confessions⁴⁷ In some cases, there have been symbiotic networks involving both political leaders and public sector workers In Sierra Leone during the All People's Congress (APC) regime, 1968-1992, the civil service became highly politicized as workers joined the ruling party In return for their loyalty, government employees were often shielded and pampered, allowed to increase the range of their powers and pursue opportunities for self-enrichment⁴⁸

In some cases, corruption becomes so entrenched that it creates negative patterns and expectations that can be difficult to break out of Scholarly research has documented the widespread devastation of this phenomenon in Africa In Ghana, there is a culture of corruption and an informal polity Victor LeVine, an expert on African politics, quotes one

⁴⁶ Kpundeh S J and Bruce Heilman (1996) "Rushwa: An Examination of Corruption in Tanzania" Submitted for publication to the *Review of African Political Economy Journal*

⁴⁷ Some writers refer to entrenched corruption as "systemic" and corruption involving high-level officials as "grand "

⁴⁸ Sahr John Kpundeh, *Politics and Corruption in Africa: A Case Study of Sierra Leone* (Lanham MD: University Press of America, 1995) p. 65

Ghanian, "We Ghanians are so accustomed to bribing our officials, and they to stealing our rate-moneys, that it would be considered odd if we didn't bribe and they didn't steal"⁴⁹ Nepotism--providing jobs for family members--arguably is socially compulsory in African countries⁵⁰, but is considered a grave offense in the West. It is worth reminding ourselves, however, that a culture of corruption characterized many jurisdictions in the West and in some cases was only defeated within the last few decades.

Vulnerable Areas

Corruption in public life typically occurs in a few key areas, regardless of the nature of the political system or the level of social and economic development. In general, corruption is most likely to occur where public and private sectors (broadly defined) meet, and especially where there is a direct responsibility for the provision of a desired service or the application of specific regulations or levies. In African countries, there are quite a few areas considered "high priority" areas--where corruption is most likely to flourish.

For example, in response to a survey, participants in the USAID/IRIS workshop in Dakar identified the following as areas where corruption occurs in their countries:

- * management of public companies
- * public markets

⁴⁹ V LeVine, *Political Corruption: The Ghana Case* (Stanford Hoover Institution, 1975), p. 12

⁵⁰ D Apter, *Ghana in Transition* (New York: Atheneum Press, 1963), p. 6

- * fiscal administration
- * customs
- * justice⁵¹

In revenue collection departments, particularly income tax departments and customs, one can find numerous cases of either tax diversion, tax avoidance and/or tax evasion. Through bribery and other forms of patronage, a wealthy elite can escape the payment of taxes or a fair level of assessment. Customs officials can use the threat of delay or high levies, or alternatively, the promise of low assessments to extort funds from business people. There are also situations where goods are generally misdeclared, contrary to the customs and excise regulations in the various countries. Thus, smuggling, though illegal, is widespread in a majority of African countries, and appears to be related to the scarcity of foreign exchange. Kickbacks, percentages or other "gifts" are offered to public officials by businessmen who either over-invoice imports and under-invoice exports--a practice which denies the country its valuable foreign exchange and tax revenues.

In quite a few African countries, corruption has been prevalent in the judiciary. Decisions on pending cases are made by judges before they are actually tried, either in accordance with directives issued from the government in power or because they were just plainly bribed. Bribing people who have a significant influence in the dispensation of justice ruins the public trust in the legal system. In Sierra Leone for example, nearly 80 percent of respondents in a

⁵¹ Nearly three-quarters of respondents said that they faced issues of governance and corruption in their work. See the Annexes to this volume.

survey think there are two interpretations of the law one for the rich and one for the poor Such attitudes grow out of the fact that questionable influence requires the use of special connections, knowledge and money⁵²

"Ghost" workers in the public service comprise another priority area where corruption has flourished Investigations in many African countries have revealed large numbers of people on government payrolls that do not actually exist This has been a continuous drain on public funds In Uganda for example, a Public Sector Review Commission identified 42,000 "ghosts" on the public payroll--civil servants who have retired, died or simply never existed⁵³

Corruption also finds expression in the appointment of family members, relatives and friends to public organizations that have profitable monopoly positions in some area of private or public sector activity Such positions are highly prized due to the material and pecuniary benefits office holding brings to its occupants Consequently, corruption is widespread in appointments or elections of public officials of every rank

At a more petty level--but one which most directly affects an aggrieved public, corruption involves countless underpaid, or simply greedy civil servants who charge the

⁵² Sahr Kpundeh, *Politics and Corruption in Africa A Case Study of Sierra Leone*, p 112

⁵³ Petter Langseth *Civil Service Reform in Uganda Lessons Learned* Economic Development Institute of the World Bank Working Papers, 1995

public for services they should rightly receive without additional fee Prime areas include issuing drivers licenses, passports, and business permits In some cases, these civil servants pay a certain percentage of their illegal gains to their superiors so they can continue to hold the office and benefit from the illicit opportunities it affords them

Another common scam is for civil servants to seek travel abroad so they can submit grossly inflated claims, which, usually for a few days travel, can be worth as much as two to three months of their regular monthly earnings Police officers, especially traffic policemen, offer a highly visible face of public sector corruption and routinely use their powers to extort bribes from those fearing wrongful or unjustifiable punishment These activities, when practiced on a large scale, can have significant harmful effects on the social, political and economic life of any society -- the case in many African countries

Analysis of Corruption in Africa

Public outrage about corruption in Africa has been openly expressed since early 1990, spawned by pro-democracy movements that drew large numbers of people into political debate and encouraged them to organize Street protests, strikes and other outbursts of discontent introduced multiparty politics to many Africans and even sometimes urged people to remove unpopular leaders, either through the ballot box or outright revolt⁵⁴ The emerging pro-democracy forces not only asserted the right of ordinary citizens to speak

⁵⁴ E Harsch ' Accumulators and Democrats Challenging State Corruption in Africa ' *Journal of Modern African Studies*, Vol 31 No 1 (1993) p 32

out and organize independently of the state, but demanded accountability from their elected officials

High-level state corruption became a prominent target. Its punishment and eradication was frequently demanded by those assembled behind democratic banners. Independent newspapers and magazines ran numerous exposes. Trade unions, popular organizations and opposition parties urged the removal of corrupt officials and the recovery of embezzled funds. Elected legislators and members of incoming governments drafted codes of conduct and appointed investigative panels to cleanse the bureaucratic apparatus⁵⁵. These actors view corruption as vicious to democratic practice because, by its very nature, it despises public scrutiny and control. And since it propped up many greatly disliked governments and administrations through political patronage, efforts by new democratic forces to expose and limit corruption weakened supporters of the old regime⁵⁶.

One problem facing reformers such as African policymakers and nongovernmental organizations (NGOs) is to sift through the mass of problems, and determine those most disabling and those most susceptible to reform. Dele Olowu, an expert on Public Administration and corruption in Africa, argues that governmental corruption is pervasive in Africa because efforts have focused on remedies before a

⁵⁵ Id p 33

⁵⁶ Id

thorough analysis of the problem⁵⁷ Policymakers' lack of understanding of some of the root causes has led to ineffective reform Michael Johnston, a political scientist who has written extensively on corruption, suggests that reforms implemented in a complex political setting that is only partially understood may have undesirable results⁵⁸

There have been numerous attempts to tackle corruption in Africa Unfortunately, many of the approaches have not been systematic but merely political maneuvers to quiet a dissatisfied public and international donor community On the other hand, devising an anticorruption strategy is complex because the success of any program depends heavily on a strong commitment from the country's president, cabinet members and the most senior officials--the abusers Without their cooperation, or certainly the dedication of the president and people in key positions of authority, malfeasance becomes cyclical

The causes and diagnoses discussed below cut across the various types of corruption in Africa As public pressure grows to combat corruption in Africa, it is nevertheless clear that greater understanding of the causes and stakes involved is necessary to the formulation of solutions that can make significant progress in limiting it

⁵⁷ D Olowu, "Corruption in Nigeria Causes Consequences and Remedies " Paper Presented at the Fifth Anti-Corruption Conference in Amsterdam, 8-12 March 1992

⁵⁸ Michael Johnston *Political Corruption and Public Policy in America*
p 140

Lack of Accountability and Transparency

At least until recently, African governments rarely have been held accountable by their citizens. The principle of transparency demands that every public act be done in an open manner. Actions of public officers must be above board and every act that may generate suspicion should be explained. Failure to observe openness in the conduct of public duties presents opportunities for the dishonest to cloak their activities in secrecy while in actuality involving themselves in extortion and favoritism.

Democratic systems offer mechanisms to minimize corruption by introducing greater accountability and transparency into governance. In Sierra Leone, for example, there appears to be a direct link between corruption and undemocratic politics. Widespread abuse has been uncovered as an increasing number of scandals surfaced following the 1978 introduction of the one-party system, which closed the door on accountability. Any institution that might have served to check government agencies was eliminated. The all-powerful president headed practically everything including the army, the state-run university and civil service, and tolerated no questions on matters that should have required public explanation. In Nigeria, especially during the Babaginda Administration, accountability was non-existent. The Administration refused to publish senior officials' declarations of assets and press critics were persecuted by the government, intensifying high-level corruption.⁵⁹ If politicians had any intention of limiting corruption, any revelation of wrongdoing would have been accompanied by

⁵⁹ L Diamond, "Nigeria's Perennial Struggle against Corruption: Prospects for the Third Republic" *Corruption and Reform* Vol 7, No 3(1993)

swift retaliatory measures, and failure to take such action would have provoked an immediate public outcry. Administrative misuse of funds would have been rare, the possibilities of being caught, high, the penalties, severe, and the potential gains, most problematic⁶⁰

Where politicians have indulged in wrongdoing and the public is passive, if not equally as self-indulgent, public employees feel as if they might as well get a share of the pickings⁶¹. Some disclosures from the 1992 corruption inquiries in Sierra Leone seem to support the view that administrative and political malfeasance feed on each other. Senior civil servants during the APC's reign, according to commission testimonies, embezzled government funds with the knowledge of equally guilty politicians⁶². It is particularly difficult to institute transparency and accountability in a system where those in top political positions connive with civil servants to defraud the country⁶³.

Overcentralized and Interventionist Government

Public bureaucracies in Africa are usually over-

⁶⁰ G Caiden, "Dealing with Administrative Corruption" Unpublished paper, 1992

⁶¹ Id

⁶² Sahr Kpundeh, *Politics and Corruption in Africa: A Case Study of Sierra Leone*

⁶³ In other cases, such as the Wedtech scandal in the United States, corrupt politicians in fact overcame the resistance of officials who might otherwise have avoided wrongdoing

centralized, often with ambiguous lines of authority, and under or over-elaborated rules of authority. This is a major contributor to governmental corruption. The state tends to centralize its powers in the executive branch with few checks or balances from the legislature, the courts, or regional or local governments. According to one scholar who has extensively studied these issues in Africa

Corruption in Africa is primarily located in the executive branch of government for the obvious reason that the legislative and judicial branches have generally lost whatever independence and power they may have once possessed⁶⁴

The private sector is left to deal with an inflated central political authority which makes decisions that could well be left to the impersonal judgment of the civil service⁶⁵. The combination of vague definitions of public functions and the absence of effective oversight has led to senior government officials assuming extraneous tasks, thereby placing themselves in positions to influence matters for their personal benefit. For example in Sierra Leone, Ben Kanu, the Minister of State Enterprises and Industries during the Momoh Administration, decided to assume responsibility for the Maritime Freights Levy Fund, formerly the responsibility of the Sierra Leone Shipping Company. After he seized control, it was alleged that hundreds of thousands of dollars

⁶⁴ R. Williams, *Political Corruption in Africa* (Aldershot Gower Publishing Company, 1978)

⁶⁵ Olowu, D. "Governmental Corruption and Africa's Democratization Efforts" *Journal of Corruption and Reform*, Vol 7, No 3 (1993), p 230

were misappropriated and embezzled ⁶⁶

Furthermore, the government is the focus of all power in most developing countries, and especially in Africa. The scope of governmental authority, especially during one-party rule, extends to the private sector. No industry is protected from its interference including banking, retail trade and the import/export industry. The government usually is the largest employer, service provider, regulator, and contractor, and determines the level and nature of economic activity. It is this great concentration of power--political, economic, and bureaucratic, together with the developmental needs of its citizenry that provide fertile ground for corruption. The constant pressure from local businessmen and transnational corporations--all clamoring for permits, contracts, certificates, import licenses--creates an overwhelming temptation to "grease the wheels," and ensure desired results. As argued previously, the wider the scope of government in the affairs of society, the greater the opportunities for corruption. In Sierra Leone for example, such opportunities were exploited by dishonest people in the early 1980s, especially during foreign exchange shortages that subsequently led to a significant decline in imports. Officials in the banking industry and the Ministry of Finance became targets of bribery. Corruption not only grew but gathered

⁶⁶ Sahr Kpundeh, 'Corruption in Sierra Leone Causes, Costs and Remedies' Paper Prepared for the Economic Development Institute of the World Bank, 1996

momentum during this period ⁶⁷

Low Salary Scales for Public Officials

Low salaries encourage corrupt behavior. Poorly paid civil servants administer highly-valued programs, budgets, taxes, custom regulations, etc., and there is an almost irresistible temptation to levy fees. Corruption is not only an issue for the powerful or a matter of uncontrolled greed. It is also a means of survival on the part of junior civil servants and poorly paid workers. Civil service remuneration and conditions of service have continuously deteriorated over many years in the wake of structural adjustment programs. Civil servants have a hard time surviving on just one salary -- hence workers look for alternative ways to generate additional income, and second jobs and moonlighting follow. Employees are not dedicated if their salaries are inadequate, and perhaps only the spoils of office keep them there. Vulnerable departments such as police and customs are ripe for corrupt behavior because they have large numbers of workers who are lower ranked and in direct contact with the public. Furthermore, not only are they unsure about receiving their salaries at the end of the month, they may not even be sure whether they are still employed because of frequent and sudden cutbacks. The notion of a stable and secure career structure, which has been absolutely central to the idea and reality of public service as it was developed in

⁶⁷ Sahr Kpundeh, "Kleptocracy and the Culture of Corruption: The Political Economy of Mismanagement in Sierra Leone" Paper presented at the Canadian Association of African Studies Meeting, Montreal, May 2-5 1996

the West, is not well established in Africa ⁶⁸

Lack of Commitment

The absence of a strong commitment from political actors, who often talk of accountability and integrity yet translate few promises into genuine efforts to detect and penalize unethical behavior, has contributed to institutionalizing corruption. Even after anticorruption agencies are created, they are usually denied the resources and independence necessary to achieve their stated purposes. In Tanzania, for example, President Mwinyi's 1990 manifesto, Presidential Circular No 1, provided guidelines on methods and strategies to curb malfeasance by incorporating the concepts of transparency and accountability into public service. Yet, these efforts lacked the material support institutions needed to fight corruption. Similarly in Sierra Leone, the anticorruption and antismuggling squads established by President Joseph Momoh achieved limited successes, and the 1992 commissions of inquiry revealed his anticorruption record was worse than all previous presidents ⁶⁹

The key to ensuring that political actors make a strong commitment is to devise an action plan that constitutionally strengthens the institutions mandated to fight corruption. In Uganda, for example, the office of the Inspector General of Government has constitutional authority to enforce the

⁶⁸ R. Theobald, 'Lancing the Swollen African State: Will it Alleviate the Problem of Corruption?' *Journal of Modern African Studies*, Vol 32, No 4 (1994), p 703

⁶⁹ Sahr Kpundeh, "Kleptocracy and the Culture of Corruption"

Leadership Code of Conduct by arresting and prosecuting those suspected of wrongdoing⁷⁰ However, the effectiveness and success of such an institution has a lot to do with its degree of autonomy As in Uganda, the best way to make such a body free from all extraneous and political pressures is to make it answerable to Parliament rather than the Head of State

Ineffective Law Enforcement Machinery

In African countries where the government is known to be soft on corruption, wrongdoing blossoms These countries are plagued by weak law enforcement agencies, senior officials collaborating with undesirable elements, and light punishment for those convicted of illegal activities The Sierra Leone Government is known to tolerate illegal mining, for example⁷¹ Desmond Luke, a Presidential candidate in the country's 1996 elections made the following observation

It seems no one can control this industry and the result is that our fertile soil is laid to waste our school-going kids drop out to seek quick wealth and yet everything is smuggled out for the benefit of the outside world This situation must change⁷²

Governments must "get tough on criminals" Of course, better laws can help effectively structure anticorruption campaigns but legal reforms are just part of the solution

⁷⁰ Sahr Kpundeh and Bruce Heilman, "Rushwa An Examination of Corruption in Tanzania "

⁷¹ Sahr Kpundeh, "Kleptocracy and the Culture of Corruption "

⁷² L. Gberie, "Sierra Leone Economy Curse of Riches " *International Press Service* March 11, 1996

In conclusion, it is important to point out that Africans are aware of the problems of corruption and abuse that have characterized authoritarian regimes, and believe these issues must be addressed immediately. Many are taking a very courageous stand in promoting democratization and democratic governance as ways to curb that abuse. But since the overall democratization process is usually long, painful and complex, rather than immediately alleviating conditions, it can intensify problems in the short term. The challenge is to survive the transition, not to avoid it.

Chapter 3: Responses to Corruption

Effective ways to combat corruption and ensure good governance are best understood through an examination of real cases. This chapter presents examples from several different settings, including Africa, other developing regions, and the industrialized world. Some of the examples fit the case study pattern more closely, and allow for the analysis of success stories. Others either provide lessons from failed efforts to curb wrongdoing or are more general in nature, offering an overview of reform efforts in particular countries or fields. Chapter 4 pulls together some of the threads running through the examples provided in this chapter into an analysis of the lessons learned and of strategies and methodologies related to governance reform.

As with corruption problems generally, the cases that follow lend themselves to analysis as principal-agent problems, according to Klitgaard's formula $C = M + D - A$, *corruption equals monopoly plus discretion minus accountability*. As such, the problems presented in the examples can be addressed by approaches that set clear standards, constrain discretion, provide positive incentives, increase the flow of information, and introduce competition. Another way to look at this is to say that the exercise of public power that is less visible and less constrained creates opportunities for corruption. In the long term, the answer is, where possible, to create or strengthen a plurality of checks and balances, such as

- competing sources of the same public authority,
- powers of oversight by other branches of government,
- clear criteria to which officials are answerable and which can be verified by a host of public and private actors,
- citizen rights to obtain relevant official information or to bring lawsuits in the public interest -- as well as a property right or entitlement to clean government that citizens will

- have an incentive to enforce, and finally, reasonable career paths and compensation packages that would encourage professionalism in the civil service

The cases presented in this chapter represent a broad range of problems and approaches to reform. Three of the cases come from Africa. The Benin and Niger examples concern movements against corruption in the wake of political changes brought about by the National Conferences of 1990-1991. The Uganda case examines the struggles and successes of Uganda's continuing process of civil service reform and strengthening of transparency. The other two cases come from Latin America and the United States. The Bolivia case, which deals with reforms in the municipality of La Paz, was presented by Robert Klitgaard at the IRIS/USAID workshop in Dakar. The remaining case, from the United States, illustrates some of the ways in which the American system of separation of powers at the federal level has dealt with fraud and abuses of authority.

Please refer to Tables 1 and 2 in the Annexes for the analytical frameworks used in preparing the cases that follow.

3.1 Benin: the Struggle Against Corruption in Theory and Practice¹

Between 1960 and 1972, chronic political instability, evidenced by a series of military coups, earned Dahomey (known as Benin since 1975) the unfavorable title of «Africa's sick child». In October 1972 a coup brought to power young military officers and intellectuals who had been greatly influenced by the radicalism of international upheavals such as France's 1968 student movement. They pledged to end dependency on foreign assistance.

¹ This section is an edited version of the presentation prepared by Dr Moussa Okanla, USAID/REDSO/WCA, for the Dakar workshop.

and to henceforth rely primarily on national resources to meet expenses related to the country's sovereignty and development

In 1974, the new regime carried out a nationalization of the economy, including the banking sector. This was facilitated by phenomenal increases in the transshipment of products to Nigeria which allowed the state to amass significant financial resources. As a result, the development of political cronyism in President Kerekou's official entourage could be sustained and orchestrated by appointments in new public companies that were considered fairly «lucrative». This practice of clientele favoritism quickly resulted in corruption, undermining the legitimacy of a regime which had elicited real popular support in its early stages.

But the prosperity of the 1970s was illusory because it concealed the weakness of an economy characterized by chronically negative trade balances and the near-total lack of an industrial sector. Indeed, the income provided by the proximity of Nigeria, and the subsequent development of the informal sector, remained very vulnerable to fluctuations in oil prices as well as in the exchange rate of the Nigerian currency, the Naira. Thus, the difficulties experienced by the Nigerian economy from the early 1980s brought to the surface the aforementioned weaknesses. Benin plunged into an economic quagmire characterized by serious budgetary difficulties and the bankruptcy of almost all public companies, followed by major lay-offs.

From 1988 onward, the moral legitimacy of the regime came to a definitive end with revelations in an independent newspaper, *Tam-tam Express*, of a series of scandals outlining the major role that several high ranking government officials had played in events leading to the nation's dire economic situation.²

² From 1987 onward, The regime led by General Mathieu Kerekou decided to liberalize the written press by authorizing the publication of private newspapers. The first initiative which immediately met with great success was the creation of the independent weekly "*La Gazette du Golfe*". Its

The general public, for the first time, came to recognize the extent of this regime's unprecedented corruption and poor oversight. The fight against corruption and the desire to "make the grave diggers of the economy pay" were important action items on the agenda at the 1990 National Conference which would eventually put an end to the military/Marxist regime led by General Mathieu Kerekou.

The Environment of Corruption in Benin and Local Elements Facilitating Its Development

The problem of corruption in Benin, as in most African countries, is not just linked to the political and economic context of the time, but also to the general cultural values which make it either a crime or a widely accepted form of "making do with limited resources."

In the 1960s, social and cultural norms contributed to the reputation of Dahomey's civil servants as workers demonstrating high levels of professionalism, diligence and integrity. These characteristics earned them the distinction of being the first choice among West and Central African colonial administrators looking for assistants. At that time, the intellectual demands and high status associated with the job of a civil servant made it more a distinguished position than a well-paying one. This is perhaps a reflection that at the time inflation was almost non-existent and services such as education and health were freely provided by the State.

The 1970s ushered in a new generation of civil servants and politicians who quickly eroded these values of professionalism and integrity. At the same time, financial burdens bore more heavily on

publication was immediately followed by that of the bi-monthly "*Tam Tam Express*" which became known in particular for revealing scandals. This freedom granted by the party in power and enabling attacks against some lords of the regime, shows that President Kerekou had decided to clean up his immediate entourage.

the civil servant because of worsening economic conditions, rampant inflation as a result of the 1973 oil crisis and privatization of health and education services

One must cautiously add, though, that the majority in this new generation of politicians from the 1970s came from rather modest backgrounds. Not having inherited any accumulated capital, whether in productive forms (such as parents' pharmacies, business ventures or medical practices) or non-productive forms (such as real estate), they had to start from scratch and often support a large family (which occasionally included in-laws). Minimal salaries (100,000 FCFA a month on average for a high-ranking civil servant at the start of a career), and needs far exceeding the level of income engendered a tendency to partake in different forms of corruption to "make ends meet," and if possible to save a little toward difficult times.

The cultural context that supported the development of political cronyism through the allocation of positions deemed "lucrative," eventually legitimized corruption, especially from those holding these favorable positions. Proverbs such as "goats graze where they are tied" or "you can't prevent a child whom you sent to buy peanuts from eating a few" illustrate the tolerance in the public arena for this form of illegal enrichment.

Thus, given the long history of leaders living well beyond their means with little fear of punishment, it is not surprising that the gendarme, the policeman, the customs officer or the soldier should indulge with full immunity in the practice of what has been called "racketeering in uniform."

The National Conference and the Elements of an Anti-Corruption Strategy in Benin

Despite Kerekou's warnings to delegates not to turn the Conference and its opening on 19 February 1990 into judicial proceedings against the former regime, the very first interventions condemned its seventeen years of embezzlement as manifestations of a destructive form of State gangsterism. Thus was established the moral tenor of a judicial framework which would endeavor, at a minimum, to fight against corruption and illegal self-enrichment, partly by relying on the provisions included in the new 1990 constitution.

The 1990 Constitution, the Regulation of Public Markets and the Independence of the Judicial Branch

At the outset, the preamble of the new constitution sets the tone

"We, the Beninese people reassert our fundamental opposition to any political regime based on arbitrariness, dictatorship, injustice, corruption, misappropriation of funds, regionalism, nepotism, abuses of power and personal power "

Though merely a statement without legal consequence, this reveals the degree to which the former regime's corruption impacted upon the fathers of the new constitution. Moreover, the desire to create a lawful State implied looking for assurances against the types of abuses which traditionally characterize authoritarian regimes.

However, stipulations become more precise in Title II, which contains provisions relating to individual rights and responsibilities. Regarding the obligation to respect public assets, article 37 states

“Public assets are sacred and inviolable They must be scrupulously respected and protected by every Beninese citizen Any act of sabotage, vandalism, corruption, embezzlement, or illicit enrichment will be repressed within the conditions set down by law ”

Moreover, the authors of the new constitution were cognizant of the fact that power had become a source of illegal and scandalous enrichment, in a context where the law books did not provide any legal means to impose accountability Thus, they introduced provisions aimed at determining the assets of the President and of the Ministers both at the beginning and end of their terms Article 52 of the Constitution drafted 11 December 1990 specifies that

“During the time they are in office, the President of the Republic and the members of the Government cannot, of their own accord nor through an intermediary, buy nor rent anything which belongs to the state, without prior authorization by the Constitutional Court within the conditions set down by law

They are required on assuming office and at the end of their term, to declare on their honor, in writing, their assets and to send the document to the Auditor General of the Supreme Court

They are not to take part in public procurement nor in adjudications concerning institutions that depend upon the State or are under its control ”

At the regulatory level, the implementation and working of the procurement mechanism has been the object of oversight since the colonial period The legal foundation of this mechanism in Benin remains statute number 4042 of 31 May 1954 This applied

the list of clauses and general conditions relative to all the goods and services markets under then-current French law, to all of French West Africa. A new code, however, has recently been submitted to the National Assembly. The objectives of the latter are, among others, to encourage efficiency, true competition, integrity, equity, and transparency.

At the judicial level, the Constitution, drafted 11 December 1990, states in article 125 "Judicial power is independent of legislative and executive power." The judicial system in Benin is a legacy from the French. It continues to be largely based on the French system despite cultural differences and more than thirty years of political independence. While a number of rules applicable to the career path of magistrates and to the judicial organization support judicial independence, nevertheless the judiciary remains in part under the authority of the executive power. The independence of the magistrate is legally assured by, on the one hand,

* secure tenure for judges ("inamovabilité") this translates into the fact that "the presiding magistrate cannot receive, without his consent, a new position, even by promotion"

and on the other hand,

* the role given to the Conseil Supérieur de la Magistrature (CSM) it must ensure the independence of the Judiciary and make sure that the status of the judges is respected.

Administrative Oversight Commissions

At the height of the economic and financial crisis which preceded the 1990 National Conference, and following a series of revelations on scandalous cases of corruption by the newspaper *Tam-Tam Express*, General Kerekou set up an **Asset Oversight Commission**, called **Ahouansou Commission**, named after one of the deputies who had asked President Kerekou to liberalize political

life in the country

But from the onset, the Ahouansou Commission was poorly equipped to carry out its mandate, both because of members who did not have the required training, and because of the political context that was still dominated by those whom it was meant to “investigate.” It was therefore not surprising that the commission did not reach any conclusion and was replaced during the period of democratic transition by the **Amoussou-Kpakpa Commission**

The new commission was supposed to draw upon the mistakes made by its predecessor. Its president, Amoussou-Kpakpa, was a seasoned magistrate who could rely on the assistance of several Inspectors of Finance

But the new commission, unfortunately, did not fare much better than the former one. None of the lords who had obviously prospered under the preceding regime were threatened. Only the courts that had been dealing with the attested malfeasance cases at the level of the State banks, continued their investigations. At that level, the true challenge for the Prime Minister of the transition period who had promised to “make the grave diggers of the national economy pay up,” as he said, was the arrest of Amadou Cissé, who played a central role in the practice of malfeasance and was a true “Rasputin” for President Kerekou.

Breaking the Culture of Impunity: the Amadou Cissé Case

Amadou Cisse, who entered Beninese political life in the early 1980s, very quickly became President Kerekou's evil genius. He took advantage of his position to make himself indispensable. He would make and unmake political careers and had managed to set up a parallel structure which intervened in ensuring the safety of the President as well as in the secret diplomatic dealings of Benin. There is little doubt that all the nominations to the main positions of responsibility in the Ministry of Finance and the two State banks between 1985 and 1988 were made on his own volition or with his

accord. In return, the "chosen" persons would have to bribe him with cash or fraudulent money transfers. Thus between 1986 and 1988, billions were transferred into European accounts without any local counterpart. Feeling protected by the political position of Cisse, ministers, heads of banks, and accountants freely helped themselves throughout this time. After such embezzlement, which bordered on gangsterism, banks found themselves "deprived of" tens of billions of francs which caused them directly to discontinue disbursements, and subsequently led to their plain and simple demise.

In 1988, scandal and the pressures from debtors and beneficiaries were so great that the party in power could no longer hide anything. Kerekou had no choice but to sacrifice a few black sheep. An inquest was launched, but for some odd reason, it was entrusted to the presidential guard. Two ministers were imprisoned, as well as the bank directors and some of their collaborators. Amadou Cissé, the "untouchable," however, remained as free as air. It was in this context that the National Conference was launched.

It recommended that Cissé's dossier be submitted for judicial review. An international arrest warrant was issued for Amadou Cissé, who had fled the country in the interim. The challenge for the new Prime Minister was then to have such an arrest warrant served while Cissé's protector still enjoyed power, knowing that any revelation could hurt him. But apparently Kerekou had made up his mind to let go of his "Rasputin" whom he reproached with having abused his trust. Shortly before the presidential elections in March 1991, Amadou Cissé was arrested in the Ivory Coast and extradited to Benin.

The trial of Amadou Cisse and his followers finally took place in 1992 under the regime of democratic Renewal. The various persons tried received prison terms ranging from 5 to 10 years. They also had to pay the defendants billions of francs. The main person missing at the trial was former President Kerekou, he was protected by a personal amnesty granted in exchange for his

agreeing to give up power after he failed to retain the presidency in the March 1991 elections

Practical Successes and Failures of the Struggle Against Corruption

As we indicated above according to the provisions of the article 52, the President of the Republic and Ministers are to declare their assets and patrimony at the beginning and at the end of their term in office. As new political alliances were being forged, which put an end to the consensus born after the National Conference, the opposition to President Soglo raised the issue of the application of article 52. Indeed, several months after the new Head of State and his ministers had been sworn in, the general public still knew nothing of their assets. The criticism of the opposition was based upon the fact that in Niger and Mali, the new heads of state had made public a list of their assets. Moreover, rumors often taken up in the independent press referred to the acquisition of real estate in France by some people close to President Soglo, which strengthened the position of the opposition that corruption had "reared its head again"

But all this was to no avail. The people in power refused to make a list of their assets public, citing two official reasons:

- * Article 52 did not compel them to do so. They were only required to provide such a list to the Auditor General of the Supreme Court.

- * According to custom in Benin, it is improper to publicly declare one's assets.

Since then, the opposition has grown wary and given up on raising this issue, but continues to call attention to the level of corruption which might be higher than under the preceding regime. Periodically, the independent newspapers which are believed to have "uncovered something" are tried for slander.

As we have seen, the independence of the judicial system is guaranteed by law. Yet, the Conseil Supérieur de la Magistrature, in charge of insuring the independence of magistrates, is presided over by the President, with the help of the Minister of Justice, and is moreover composed of seven members chosen by the President. The nomination and oversight of judges by the executive power in French-speaking countries challenges the very principle of judicial independence. Likewise, the possibility for the executive to restrain the realm of a judge's action and level of intervention, especially with regard to procedure, can distort the administration of justice, especially when the charged person clearly holds a position of power.

Above all, it is the preeminence of the State Prosecution that illustrates the partial dependence of the Judiciary upon the executive power. Indeed, the regulations governing penal procedure grant the State Prosecutor control over the trial, from the stage of the police inquest to the execution of prison terms. Thus the State Prosecution

- * decides to prosecute or to drop the charges,
- * sets the date of the hearing,
- * convenes the parties,
- * chooses the magistrates who will pass judgment.

Moreover, at certain stages of the process, the decision of the presiding judge carries no weight, unless confirmed by the State Prosecutor.

The magistrate's independence is also weakened by the following constraints:

- * Very modest living standards which make the magistrate vulnerable to financial temptations,

* Psychological pressures resulting from threats to a magistrate or his family, during trials which affect the reputation or freedom of influential personalities

The judicial apparatus in Benin is characterized by serious material and human difficulties which seriously impede it from functioning properly. The General Auditor's Office, which should permanently oversee the management of public assets, remains paralyzed by the lack of resources and qualified staff.

An Example of Incomplete Reform: The Case of Illegal Road Payments

The case of illegal payments in Niger, illustrated elsewhere in this chapter, has its echo in the case of Benin, as shall be seen further on. These similarities reinforce the perception that the problems of governance with which African countries are faced hold at least common lessons and can potentially lead to the development of common policies coordinated and implemented at the regional level.

The creation of the CEDEAO in 1975 constituted a real turning point in the evolution of the freer movement of people in West Africa. Indeed, since then, an entry visa is no longer required for the citizens of the member countries for a stay of less than 90 days. Moreover, a series of later agreements signed after 1975 have substantially reduced constraints on the free movement of products which originate from the countries of the sub-region, notably food and light industrial goods. Finally, the rapid construction or improvement of roadways in recent years has greatly contributed to the increase in intra-regional transactions.

Regional trade in West Africa, which benefits from such favorable conditions, could have significantly expanded if it had not been for the solicitation of bribes from truck drivers and ordinary travelers by police, gendarmes, customs officers and even personnel.

working for the Watershed and Forest Division. The phenomenon has become a true plague in the whole sub-region, even if differences exist from one country to the next.

In Benin, the solicitation of bribes from road users by control agents has always existed, but over the course of the 1980s it started taking on disquieting proportions. Control agents openly and easily demanded money from road users as if it was an automatic privilege. In response, the Government set up periodic controls on the field so as to catch the offending agents on the spot. These agents were then dismissed for having extorted such small sums of money as 200 FCFA. Moreover, the Government was confronted with the occasionally violent opposition of the drivers' trade-unions that asked for a reduction of the number of checkpoints on the country's main roads.

These last two factors, that is, Government crackdown on crime and increasing opposition by civil society, led to a partial tapering off of corruption among agents manning checkpoints. It seems that the coming of a new democratic era was understood by part of civil society, and more precisely by drivers, as "a situation where everything goes." Such a reading of democracy was often expressed by the refusal to keep up with the payment of various taxes imposed upon vehicles and common violations of traffic laws. At the same time, these same users obtained, through their unions, Government reductions of checkpoints on the main roadways to a bare minimum.

But the reduction of control inspired outlaws and extortionists. Criminality then increased tremendously on the main roads in Benin. Confronted with this new danger, the drivers had to resign themselves to the reestablishment of the "status quo ante."

Today racketeering on the main roads in Benin has taken on such terrible and negative proportions for national and regional trade that it makes the public furious. A journalist reported in an article published in several sub-regional newspapers the experience

he had had between Malanville (on the Niger border) and Tohoun (border check-point with southern Togo) with an onion transporter. Over 753 km, the journalist counted 25 customs officers, gendarmes and policemen, contributing to what he called a veritable "Racket in uniform". In his own words

"307,400 CFA from Malanville to Tohoun, 269,500 of which went straight into the agents' pockets "

Conclusion

In our analysis of the evolution of corruption in Benin since the 1990 National Conference, we have shown that it bore a great part of the responsibility for the moral and economic collapse during the seventeen years of the military/Marxist regime, indeed, its role was such that the fight against corruption was first and foremost on the agenda of the delegates attending the National Conference. Then, the authors of the new constitution translated this aspect of the spirit of the National Conference into fundamental law by elaborating anti-corruption provisions.

Yet, in practice, during the six years under a new constitution and with the influence of democratization, the results have not been up to the 1990 expectations. True, Amadou Cissé and his followers were tried, but public expectations, consistent with hopes created by promises to "make the grave diggers of the national economy pay up" were unfulfilled. Very few of those who had ostentatiously become richer under the former regime have been questioned, and those who were, were released shortly thereafter.

As far as the new management of the country is concerned, although it is too early to make an assessment and pass judgement on the role played by corruption and illegal enrichment, the demands for more transparency and integrity coming from the opposition as well as from a part of civil society, including the

Catholic Church, show that the "beast has reared its head again"

Finally, corruption in daily activities, that is to say the one taking place in administrative offices through bribery and on roadways through "racketeering in uniform," has risen to such proportions that it elicits more and more public outcries. The Government will undoubtedly be compelled to follow these developments with laws to fight against corruption. But the fundamental question of their application remains key.

The remarkable consensus which followed in the wake of the National Conference has waned quickly and considerably, and with it the possibility of quickly implementing reforms that are largely supported in political and popular circles. President Kerekou's decision to increase the freedom of the press in 1987, however, remains an important element in the fight against corruption. The experience in Benin also suggests, and this is not very surprising, that mere legal modifications are a necessary prerequisite, but they are not enough to effectively eradicate corrupt practices. Finally, the case of Benin reinforces the inescapable element of a strategy encountered elsewhere in this volume, that is to say "frying big fish." However, this precept must be met with the will to impose sanctions on the "big fish" in more than merely a symbolic way.

3.2 Niger Reduction of Illegal Road Payments³

The last fifteen years in Niger have been a period of continual opening of local market areas in rural Niger to a wider

³ This section is an edited version of the paper presented at the Dakar workshop by Dr Glenn Rogers, Regional Program Economist at USAID/REDSO/WCA Abidjan Côte d'Ivoire, and Sidi Mohammed Iddal, Project Manager, Niger Economic Policy Reform Program, at USAID/Niger.

and more diverse set of market linkages within Niger and the West Africa sub-region. Regional integration has been taking place in small steps. In the 1990s the sources of economic growth for Niger will likely be a more diversified mining sector and broad-based agricultural growth linked to West African regional trade. Increased regional trade will require sustained reduction of trade barriers, including illegal road payments.⁴

Economic Background

Niger

Since independence in 1961 Niger has gone through several shifts in sources of economic growth, each related to significant political transitions. Traditionally the major constraints to increasing rural incomes in Niger have been limited agricultural production capacity and small domestic markets. Until the 1968-1974 drought, agriculture was the primary source of growth with groundnuts accounting for 70% of Niger's export revenues.

From 1980 to 1991, GNP per capita is estimated to have declined by 4.1% annually, partly due to a sharp decline in uranium ore exports, a five-fold increase in export taxes, the 1984-1985 drought, and the closure of the land border with Nigeria between April 1984 and March 1986. In the early 1980s the free movement of grain between local markets within Niger was restricted and long distance trade was limited. Efforts to encourage economic growth shifted to better management of existing resources through institutional and economic policy reform.

Beginning in 1984, USAID supported liberalization of marketing for inputs and agro-pastoral commodities among local markets within Niger, expanding this in 1988 to include access for agro-pastoral exports to markets outside Niger. In October 1988,

⁴ In this report "illegal payments" are defined as payments for which no receipt was received.

with USAID support, the Government of Niger eliminated export taxes on agro-pastoral products, which led to an increase in exports over the next two years. A relaxation of state authority following President Kountche's death in 1987, domestic trade and economic liberalization, and the creation of new road access to coastal markets led to an environment of increasing corruption and illegal payments along the agro-pastoral trade routes in Niger. Independent truckers' and transporters' unions established at this same time were to play a leadership role in reducing illegal payments in a new democratic Niger with freedom of expression for the civil society.

The Region

Economic growth in West Africa could be significantly increased through the implementation of existing free trade agreements within the framework of the African Economic Community treaty, which was ratified in May 1994. Under this treaty, African governments established the objective of reducing tariff and non-tariff barriers to trade within and between economic communities such as ECOWAS (Economic Community of West African States) and UEMOA (Union Economique et Monetaire de l'Ouest African). The schedule for the removal of all tariffs on goods arriving from other ECOWAS countries was restated at the 1992 ECOWAS summit. These tariffs were to be abolished in Côte d'Ivoire, Ghana, Nigeria, and Senegal by 1996. The Mano River Union, created by Guinea, Liberia, and Sierra Leone in 1973, was not successful in creating a customs union and increasing trade among its members. Key reasons for the failure of this Union are the frequent border closures for political reasons and the non-tariff barriers such as illegal payments at roadblocks by soldiers, political party authorities, and customs officials.⁵ This is a clear example that illegal payments along major transport routes can undermine regional integration, trade promotion, and broader economic

⁵ Okolo, Julius Emeka and Stephen Wright, ed. West African Regional Cooperation and Development. Westview Press, Boulder 1990 p 82

growth

Significant new opportunities have been created in the last decade for regional trade in West Africa based on road transport. As of 1993, over 88% of the trans-coastal highway linking Lagos, Nigeria with Nouakchott, Mauritania and 78% of the trans-Saharan route linking Dakar, Senegal with N'Djamena, Chad was completed. However, if illegal payments and harassment of road transporters are not controlled, regional economic growth will be reduced and West Africans will be poorer.

Illegal Road Payments

Illegal payments at road checkpoints and customs posts in Niger started being reported as a constraint to exports in the late 1980s. Available data indicate that illegal payments were increasing between the interior of Niger and West African markets between 1988 and 1992. By 1992 the legal and illegal payments in Niger for exports were roughly equivalent to official export taxes in Niger before 1987.

In May 1992, USAID conducted a survey among traders, transporters, and truckers to confirm that illegal payments were a constraint to agro-pastoral exports. Illegal cash payments between Galmi, Niger, and the Burkina Faso border 630 km away had reached 79,000 FCFA in May 1992 for a 25 ton truck of onions. Increased overhead costs for vehicles due to delays related to illegal payment were estimated at 27,000 FCFA for this 630 km distance, and loss of produce attributable to delays or loading/unloading associated with illegal payments were at least equal to the cash payments. On this basis the total cost of illegal payments was at least 185,000 FCFA or 7 FCFA/kg to ship 25 tons of onions to the Burkina Faso border in 1992. In comparison, effective export taxes on onions were increased from 3 to 10 FCFA/kg in 1984 and again

to 14 FCFA/kg in 1987⁶

Evidence suggests reduction in export taxes and illegal payments inside Niger on the Galmi to Abidjan and Burkina onion export routes has been offset by increased taxes and illegal payments outside Niger. Nigerien onions may face a higher total level of legal taxes and illegal payments now than they did in 1988 before Niger removed export taxes. What the Government of Niger (GON) has given up in tax revenue and Nigerien public agents have given up by reducing illegal payments has been captured by the governments and agents in Burkina Faso and Côte d'Ivoire. Trade flows have increased partly because the cost of spoilage due to delays and increased operating costs of vehicles due to wasted time have been reduced.

In 1994, Côte d'Ivoire increased import taxes per truckload of Nigerien onions from 170,000 FCFA to 476,000 FCFA, or from 5 FCFA/kg to 14 FCFA/kg. In Côte d'Ivoire since the early 1990s illegal payments have been formalized as a payment to a private escort company that allows truckers the option of avoiding illegal payments to customs officials along the road. Drivers pay this private escort collection agency rather than agents along the road to avoid the risk of spoilage and wasted time which are more important than the illegal cash payment. These escort fees are reported in 1994 to be 220,000 FCFA in Côte d'Ivoire⁷ and are ten to fifteen times higher than escort fees paid in Togo or Benin for the same distance from the port.

⁶ It should be remembered that the illegal cash payments measured in the USAID surveys may represent less than half of the direct costs of illegal payments. Since comparable data on these costs have not been collected illegal payments referred to here reflect cash transactions only.

⁷ Olivier David, Les circuits de l'oignon en Afrique de l'Ouest, CIRAD-FLHOR Feb 1995, p 21

Between Galmi, Niger and Abidjan, Côte d'Ivoire in November 1995 there were 67 road checkpoints where drivers made illegal payments of 254,000 FCFA and an "escort fee" of 220,000 FCFA to avoid illegal payments to customs agents in Côte d'Ivoire. This is an average of one checkpoint every 30 kilometers and 16 FCFA per KG for a truckload of 30 tons of onions. On two trips, average illegal payments of 161,000 FCFA were paid to 25 customs agents, while 46,000 FCFA was paid to 22 Gendarme officials, and 47,000 FCFA was paid to 17 police officials. Illegal payments to gendarmes and police that provide security services to travellers and traders accounted for only 20 percent of the 474,000 FCFA of illegal payments and escort fees.

A Chronology of the Development of Strategies Against Illegal Payments in Niger

In January 1991 the national workers' union (Union des Syndicats des Travailleurs du Niger) declared itself independent of the national political party. Under pressure from this powerful union and the students' union (Union des Scolaires Nigeriens) the Saibou government allowed the convening of the *National Conference* from July to November 1991. One of the key responsibilities of the transition civilian government which emerged from the Conference was to reduce corruption. In 1992 a National Assembly was elected, and in March 1992 President Ousmane was elected President in Niger's first multi-party democratic election.

Immediately after being elected, the new government launched a campaign against illegal payments to police and gendarmes and, in 1994, focused on reducing illegal payments to customs agents. In May 1992 this (GON) campaign included radio messages from the Ministry of the Interior to local public officials to stop harassment of drivers and, a request by the Minister of the Interior for the members of the Truck Drivers' Union to report corruption. In June, this initiative was followed by a Ministry of

Commerce decree banning illegal payments In addition, a July 1992 letter from the Attorney General stated his concern that road police were ignoring regulations regarding road fines and that in the new atmosphere of democracy, citizens were increasingly bringing these abuses to his attention

After completing an analysis of the economic effects of reducing illegal payments on agro-pastoral exports and Government of Niger revenue, USAID offered to grant the GON budgetary assistance of \$3.3 million if the GON would "reduce domestic illegal payments to public officials in the trade of agro-pastoral products" In addition, funds were made available for financing other activities of the anti-corruption effort, such as publicity campaigns By October 1992, when the GON signed the agreement with USAID to reduce illegal payments, this issue was a high priority for both public and private sector groups In November 1992, the Transporters' and Drivers' Unions went on strike over illegal payments and the GON signed an agreement with the unions to reduce the number of road control posts

During 1993, the campaign to reduce illegal payments to police agents continued The Minister of the Interior ordered local authorities to reduce Police and Gendarme control posts In July the Minister of Justice instructed the tribunals to apply corruption regulations In August a USAID funded national forum brought together transport sector stakeholders to define a transport policy During this forum the Prime Minister read a letter on national TV ordering his ministers to reduce corruption and illegal payments This was followed by the appointment of an Inspector General of the Police Service In spite of these pronouncements, private sector actors saw little progress by the fall of 1993 on reducing illegal payments The Nigerien Drivers' Union threatened a strike leading the GON to reiterate their November 1992 agreement to reduce road control points In December 1993 even drivers from Nigeria went on strike over excessive illegal payments and the number of control points in Niger

In January 1994, USAID mailed 1,000 copies of the key government pronouncements to both the public and private stakeholders throughout the country. This included the Prime Minister's August 1993 letter, the Ministry of Justice's letter, reiteration of public service statutes stating corruption was illegal, the relevant articles of Niger's Penal Code with relevant punishments, and perhaps most importantly a request for acknowledgement of receipt to be sent to the Prime Minister. In February, USAID conducted a partial follow up survey among drivers to ask whether illegal payments had been reduced in the previous year as the GON claimed. Drivers responded that payments had definitely not been reduced. On this basis USAID refused to release payment because the GON had not demonstrated a reduction in illegal payments as required. The statistical evidence now available suggests that payments to police and gendarmes had actually been reduced, though payments to customs agents had increased to offset this reduction. This uncertainty over whether illegal payments had been reduced or not led to six months of more intensive USAID support of GON initiatives in 1994. In March, USAID funded a \$57,000 radio/TV publicity campaign in local languages to reduce tax evasion, fraud, and illegal payments.

In April 1994 the unions more vehemently threatened strike action over the failure of the government to reduce the number of road control points. The Minister of Transport and Tourism sent a letter on April 15 to the Drivers' Union acknowledging that the November 1992 agreement had not been adequately applied. In addition, in a new tone of public service, he committed the GON to do three things: 1) establish a framework of consultation between Forces of Order and different transport sector stakeholders (unions), 2) instruct Security Posts to address only security issues (not collect regulatory fines), and 3) examine a single control point approach for document control.

The intensified 1994 campaign against illegal payments was also different in that it included specific actions against illegal payments to customs agents. In April the Customs Director General

radioed local officials and prohibited local customs officials from delaying, unloading, or making vehicles backtrack for control purposes. Monitoring of customs agents resulted in the arrest and/or transfer of corrupt agents. In addition the statistical tax of 4.5% on exports was removed in September 1994, which reduced the opportunity for extortion by customs officials.

In March through June 1995 there was an additional USAID-funded local language public information campaign on 1) regulations and sanctions against illegal payments, 2) elimination of the export taxes and license requirements, and 3) current prices of agro-pastoral products and transport costs to markets of Niger and neighboring countries. At the same time 10,000 posters and 10,000 stickers promoting the anti-corruption campaign were produced for nation-wide distribution. In March 1995 the GON announced it would eliminate all road control checkpoints, while leaving the required security checkpoints. In June 1995, Niger's reduction of illegal payment was presented as a success story at the First ECOWAS Trade Fair in Dakar, Senegal to increase attention on this constraint to regional trade and integration. These continued efforts to communicate Niger's success throughout the region are expected to help sustain the reforms accomplished and reductions in illegal payments achieved.

On a *regional scale*, efforts to uproot illegal payments have involved a higher level of regional coordination. In December 1995 drivers and transporters in Niger reported that an agreement had been reached on establishing a "Droit de Traverse" that would allow them to pay a flat fee on entering Burkina Faso and then not be subject to further stops or payments inside Burkina Faso. There was also a meeting held on October 27-28, 1995 in Accra of the UTRAO (West African Transit Operators Union), an ECOWAS affiliated entity based in Cotonou. At that meeting members agreed that if the Droit de Traverse for Burkina Faso was not implemented by December 31, 1995, members would consider boycotting Burkina Faso and use other routes to reach their destinations.

A representative of the Nigerien National Drivers Union said members of UTRAO were seeking to establish a "Droit de Traverse" in all sixteen member states of UTRAO. Only two, Togo and Benin, have this system presently. Drivers believe that if all states established a Droit de Traverse (right of transit), along with the Péage Routier (road tolls), which is already in existence in all sixteen member states, both the governments and users of the transit system would benefit. Instead of funds being paid illegally to government agents, funds received from the Droit de Traverse and the Peage Routier could be used by governments to maintain and improve the road systems.

Reduction of Illegal Payments in Niger Results and Trends

In August 1994 the GON claimed it had successfully reduced illegal payments and invited USAID to confirm this through a field survey. In response USAID conducted a survey during the two week period November 16-27, 1994 as part of the fourth broader survey of traders and farmers. USAID staff met with representatives of the Drivers' Union in four Nigerien cities to update the baseline data collected on illegal payments in May 1992. The drivers said the number of road checks had increased over the past two years, but that the overall amounts they were required to pay had decreased.

Statistical analysis of quantitative survey responses from a wide number of focus group and individual interviews with drivers indicates that total illegal payments had been reduced from 115 to 60 FCFA per KM on export routes between the May 1992 baseline and November 1994 follow up surveys. The data suggest that payments to police and gendarmes were reduced by 45% on six export routes and by 51% on six import routes. In contrast, payments to customs agents were reduced on export routes but increased on import routes, allowing them to maintain a relatively constant level of total payments on export and import routes.

combined. In December 1995 drivers, transporters, farmers, and traders were surveyed again and they confirmed that illegal payments were still significantly below earlier levels. However during 1995 payments and the number of checkpoints had declined on some routes, but had increased on the most important agro-pastoral export routes. Following the January 1996 coup in Niger there have been reports that the number of checkpoints has increased. In late February 1996, unions were again threatening strikes to reduce the harassment of road transporters and number of road checkpoints.

Illegal payments and export taxes on agro-pastoral products were reduced in Niger through a combination of strategies supported by the Government of Niger. Individuals interviewed attributed the reduction of illegal payments to sensitization work carried out by the GON on the radio in local languages, by political parties, and students from their villages. Members of the powerful students' union asked villagers to report any violation of their rights by civil servants. Clearly this reduction is also a result of the drivers' and transporters' strikes, meetings, and sensitization of their members. Some think that because of this sensitization work, people are more aware of their rights and do not hesitate to argue with government officials and agents. This was not the case before democracy when people were afraid of agents and did not dare to protect their rights even when those rights were violated.

The increase in agro-pastoral export revenue to Niger has contributed to greater imports and consequently to greater import tax revenues for the GON. Total tax revenue on international trade and transactions (both import and export) increased from FCFA 22.1 billion in 1988 to 27.3 billion in 1990 and then declined to 18.0 billion in 1992, according to IMF data. The conclusion is that after a short adjustment period the increase in import customs tax revenues from increased trade may have equalled the tax revenue loss from elimination of agro-pastoral export taxes.

A Summary of the Niger Experience with Illegal Payments

The experience of Niger and information reported by Nigerien, Ghanaian, and Beninois transporters, traders, and drivers can be summarized as follows

1 A small number of customs agents in just a few locations are a major constraint to increasing regional trade, preventing higher prices for poor rural producers and lower prices for poor urban consumers in West Africa

2 In 1992 the cash cost of illegal payments represented less than the cost of spoilage of produce and operating costs of vehicles, due to wasted time. The aggregate impact on regional growth is many times larger than either of these amounts

3 Between 1992 and 1995 delays and their costs were significantly reduced through changes in regulations inside Niger. These types of changes reduced the authority of customs agents and strengthened the rights of private sector transporters in Niger. This helped reduce lengthy delays for transporters by customs officials without constraining police and gendarmes in their efforts to provide security

4 Formalizing payments at one location in the form of escort fees in Côte d'Ivoire and at the ports in Benin and Togo has reportedly reduced problems associated with illegal payments. These measures have reduced vehicle delays and loss of perishable produce. In Côte d'Ivoire after drivers pay 220,000 FCFA upon entering the country from Burkina Faso, no illegal payments to customs agents were reported

5 Cash costs of illegal payments were reduced in Niger by reducing the number of road checkpoints and reducing the payments made per checkpoint. Education campaigns for drivers so they could know the law and their rights was a critical element

in reducing the average payments per checkpoint

6 Illegal payments became less of a constraint to regional trade between 1992 and 1995. In many countries cash payments per checkpoint have been stable with customs agents requiring 5000 FCFA and gendarmes or police requiring less. Since 1992 these cash payments have not increased as fast as the rate of consumer price inflation and the delays associated with making these payments have been reduced. However, initial evidence suggests that illegal payments, especially to customs agents, are increasing again in some countries in 1995 and 1996.

7 The number of checkpoints was reduced following democratic elections in many countries and the increase in rights of citizens to present their demands to an elected government. In some countries the number of checkpoints where illegal payments are made has increased again since 1994 when official control of public agents has declined and judicial bodies are not empowered to fulfill their constitutional roles.

Conclusion Lessons for the Promotion of Regional Economic Exchanges

On the basis of the Niger experience, it should be possible to reduce illegal payments across West Africa using the following five strategies

Reduce the number of customs barriers not located at international frontiers

This strategy could eliminate more than half of the illegal payments and associated transport delays, while not reducing

security along the roadways⁸ Customs agents are the largest single cause of illegal payments Governments in West Africa can take advantage of the ECOWAS agreements they have already signed to reduce customs barriers that are holding back regional trade and blocking more rapid economic growth

Enforce existing regulations and apply sanctions to individual public officials that extort the highest illegal payments at specific road checkpoints

Reducing illegal payments in each country will require focusing on the group of officials that extort the highest level of illegal payments In Niger the customs officials are the worst offenders In Côte d'Ivoire, gendarmes are reported to be the major problem and there are no reported payments to customs officials after the international border where the escort fee and import taxes are paid In Burkina Faso, police are reported to demand more illegal payments than gendarmes, though customs agents take more than twice as much in illegal payments as the police

Change regulations to reduce the authority of customs and vehicle control agents

If the authority of officials at each checkpoint is limited and clearly specified for vehicle inspection, customs control, or security against criminals, there will be fewer opportunities for illegal payments Government sanctions against employees, an effective judiciary system, and public education campaigns are important elements of this approach

⁸ Note that the Benin case, presented earlier in this chapter suggests that this conclusion might not be valid across all of West Africa

Formalize illegal payments so they are all collected at one time and at one location

This strategy has proven to be very effective in decreasing delays and wasted time which represents the most important cost for traders. It also enables the government to capture a larger percentage of payments to be used for public purposes rather than for private consumption of public officials.

Collect and disseminate information on illegal payments and existing related regulations

African organizations at a national level such as SNCN and regional organizations such as UTRAO should maintain good databases on illegal payments and share this information throughout the region with journalists, national governments, and others at workshops where the issues can be widely discussed. The national radio campaigns in Niger appeared to be effective in encouraging citizen groups to defend their legal rights as defined in national laws and regulations. Regional organizations such as CILSS/AGRHYMET should be called upon to provide data processing services and preparation of maps showing the geographic locations of illegal payments for more targeted efforts to reduce illegal payments on roadways that constrain regional trade of agricultural products.

3 3 Uganda. Establishing a New Institutional Framework for Good Governance⁹

When the National Resistance Movement (NRM) took power in Uganda in 1986, it inherited a country traumatized by civil war and state terror. Uganda had been reduced to poverty through lawlessness, corruption and mismanagement. The civil service--once hailed as one of the best in sub-Saharan Africa for its performance and motivation, a well paid and fully equipped work force--had become inefficient, demoralized and unresponsive.

Unlike a majority of African governments, the NRM government demonstrated political will and commitment to curb corruption. Soon after taking power, President Museveni made it clear he viewed corruption as one of the evils he inherited and a key obstacle to economic progress. He often spoke of the seriousness of the issue, describing it as a threat to Uganda's stability and the democratization process. The NRM government's 1986 ten-point program included the following commitment:

"Africa being a continent that is never in shortage of problems, has also the problem of corruption particularly bribery and misuse of office to serve personal interests. Corruption is indeed a

⁹ Edited version of a text supplied by Sahr John Kpundeh. The author relied heavily on the following works: Economic Development Institute of the World Bank (EDID PSM) and Transparency International, "Ethics, Accountability and Transparency in Uganda: Assessing Current Situation and Looking Ahead," report on a Mission to Uganda, Washington, DC, February 1995, *Integrity Workshop in Uganda II*, Final Workshop Proceedings, Mukono, Uganda, 27-28 November, 1995, *Investigative Journalism in Uganda I*, Final Workshop Proceedings, Mukono, Uganda, 14-19 August 1995, *Investigative Journalism in Uganda II*, Final Workshop Proceedings, Mukono, Uganda, 19-25 August 1995, Petter Langseth, "Civil Service Reform in Uganda: Lessons Learned," EDI Working Paper, Washington, DC 1995.

problem that ranks with the problems of structural distortions Therefore, to enable the tackling of our backwardness, corruption must be eliminated once and for all "

Assessment of Corruption

Corruption in Uganda, as elsewhere in Africa, was not only the issue of uncontrolled greed of senior government officials and a means of survival for junior civil servants but a malaise that constituted a significant threat to any system of government

Several types of corruption were identified in Uganda bribery, embezzlement, diversion of government materials for private use, under or over-invoicing, payment for "air" or fictional goods and services, salaries for "ghost" or non-existent workers, nepotism, patronage, kickbacks, extortion, and to a greater extent, neglect of duty, since civil servants can be paid without actually having to work

The scope of corruption in Uganda was influenced by a number of factors including the following

- very low pay for civil service workers (which necessitated additional income by legal or illegal means),
- lax enforcement of auditing policies within government and parastatal sectors,
- failure to implement procedures and regulations and standing orders,
- manipulation of certain types of donor aid,
- under-resourced judicial and police systems which had not fully recovered from years of civil war,

- a privatization program with constantly changing criteria for private investment
- a centralized system with too many layers of bureaucracy and red tape

Strategy for Change

The government developed a coherent strategy to combat corruption. It took substantive and determined measures to curb the malfeasance. Prevention of further corruption was the primary goal.

An integral part of the strategy was to establish an independent, impartial and efficient public office. The office of Inspector General of Government played a mediatory role that addressed the concerns of those who had been treated unfairly by the public service and punish those found guilty of corrupt behavior. The government's anticorruption strategy involved the following components:

1 The Inspector General of Government

The Inspector General of Government (IGG) was established in 1986 to protect and promote human rights and the rule of law. It was designated to lead the fight against corruption and foster the elimination of the abuse of the public office and promote fair, efficient government and good governance.

Initially, the IGG was directly responsible to the president of Uganda. However, since 1995 it has been required to answer only to the Parliament. This change in Uganda's constitution in

1995 insulated the IGG from undue interference¹⁰ Changes in the constitution further recognized and strengthened the central role of the IGG Specifically, it gave the IGG the power to

promote and foster strict adherence to the rule of law and principles of natural justice in administration, eliminate and foster the elimination of corruption, abuse of authority in public office investigate any act, omission advice or recommendation by a public officer or any other authority, taken, made, given or done in exercise of administrative functions on its own initiative or upon complaints made to it by a member of the public whether or not that person has personally suffered any injustice by reason of that matter, hear and determine cases involving corruption, abuse of authority or public office and to make any order according to law stimulate public awareness about the activities of its office in particular through the media and other means that it considers appropriate, establish branches at district or other administrative levels as it considers fit for the better performance of its functions, and, submit to Parliament, at least once every six months, a report on the performance of its functions

To accomplish these goals, the IGG was given the authority to investigate public officials and develop media campaigns to make the public aware of the values of constitutionalism

¹⁰ In contrast for example, the Senegalese *Mediateur de la Republique* reports to the President, hence the scope of its autonomy is correspondingly less

2 *Public Service Reform*

The Public Service Review and Reorganization Commission (PSRRC) was established to make specific recommendations to reorganize all public offices, procedures and systems. The new vision decreed that by the year 2000, Uganda's civil service would be smaller, better paid, more efficient and effective than it was in 1986. Fair, simple, consistent rules and procedures would be implemented to foster discipline while promoting personal initiative. Levels of corruption would be reduced, backed by an effective police and prosecutorial staff. Clear organizational goals would be implemented, workers made fully responsible and accountable for their assigned duties, and individuals encouraged to commit to achieving clearly identified objectives.

3 *Introducing a Leadership Code of Conduct*

The government called for a new culture of leadership for both elected and appointed officials in the public sector. The Ugandan Constitution is based on the notion that the country's future prospects depend, to a very great extent, on the quality and honesty of its leaders. Based on constitutional principles, the government utilized a broad concept to determine what constitutes "leadership"--the role of authority in setting an example, honest, impartial and non-discriminatory administration, sensitivity to marginalized groups, developmental instruction, adherence to democratic principles, respect for the rule of law, periodic testing, a "sense of shame", and, transparency and accountability.

A code of conduct for those occupying leadership positions was first proposed in 1992. Its provisions were debated in the Constituent Assembly and finalized when the Constitution was passed.

The proposed Leadership Code Statute detailed the expected, and prohibited, forms of conduct for government leaders.

For example, it required them to make annual disclosures of income, assets and liabilities to the IGG. This disclosure also covered his or her "nominees" (defined as anyone who controls or manages business or other activities of which the leader is principal beneficiary). Activities which were forbidden included requesting or accepting gifts or benefits in exchange for the exercise of official duties, failure to seek prior approval from the Leadership Code Committee to contract with the government or with certain kinds of foreign businesses, abuse of government property, and misuse of confidential official information.

The proposed Code prohibited the misappropriation of public funds, the use of official position to obtain property, the use of official time for private business that is in conflict with official duties, conduct prejudicial to official status, the evasion of taxes or other financial obligations, furthering the interests of a foreign government contrary to Uganda's interests, acts prejudicial to people's rights, and, activities designed to undermine the government's integrity. It forbade senior leaders from holding shares, proprietary interests or office in foreign business organizations, or from operating as commissioned agents. In addition to establishing a minimum standard of behavior, the proposed Code delineated penalties for transgressions.¹¹

4 *The Role of the Director of Public Prosecutions*

The Penal Code was revised in 1987 to address specific penalties for corruption offenses. Since the 1960s, Ugandan law has given police and prosecutors power to deal with malfeasance. For example, the Prevention of Corruption Act 8 of 1970 specifically authorizes a special section within the Directorate of Public Prosecutions (DPP) to handle corruption and fraud-related cases and has preventive, investigative and prosecutorial functions.

¹¹ Some of these requirements are more stringent than those applicable to civil servants in industrialized countries.

Other relevant pieces of legislation included the IGG Statute, 1987, the Police Act, 1964, the Public Finance Act, 1964, the Leadership Code, Statute No 8 of 1964 and the Evidence Act

5 *The Auditor General*

The Auditor General was given the authority to examine "all" rather than "some" government accounts. The frequency of audits of government operations was increased. The new constitution also helped to identify poor accounting practices. Probes to determine "value for money" were required to ensure revenue is spent wisely and prudently. Government departments and agencies were told to submit their accounts to the Parliament for scrutiny and publication.

6 *The Public Accounts Committee*

After several decades of inactivity, the Public Accounts Committee (PAC) of the Parliament was reactivated to investigate the misuse of public funds. The task of the PAC is to review the Auditor General's reports and summon accounting officers to answer questions.

7 *Other Government Reforms*

Other reforms--economic, constitutional and military--were initiated. Though the public sector reform, in particular the civil service reform, is likely to have the most direct impact on corruption, other reforms will also help to reduce the scope and incidence of corruption.

8 *The Role of the Press*

The government encouraged the development of a free press as a part of the country's movement towards greater freedom and democracy. The press was recognized to be critical in the fight against malfeasance.

9 *The Role of the President*

President Museveni of Uganda assumed a large role in the fight against corruption. He missed few opportunities to "drive the anti-corruption message home." For example, while opening the new international facilities at Entebbe Airport in 1994, he rebuked the corrupt practices of customs and immigration officials--a speech which attracted extensive media coverage.

Implementing Reform

The implementation and results of this strategy in each area have been as follows:

1 *The Inspector General of Government*

With strong constitutional backing, the IGG has uncovered several cases illustrating the many faces of fiscal mismanagement and has demanded severe punishment for offenders. A number of officials have been dismissed or suspended from their positions because of their involvement in corruption. Some political leaders have also been relieved of their duties following investigations by the IGG and ensuing public pressure.

Despite these gains, the office suffers from serious flaws. Until recently, its reports were of an advisory and confidential nature--sent to the President instead of an open and more directly accountable forum such as Parliament. Shortages of critical resources have confined the IGG's monitoring and investigative activities to urban areas, such as Kampala, while the rest of the country remains "out of reach." In addition, the office lacks enforcement powers and must depend on the justice system to initiate prosecutions. However, the government recently adopted measures to intensify the fight against corruption which may also remedy some of the above weaknesses.

2 *Public Service Reform*

The Public Service Review and Reorganization Commission consulted over 25,000 public servants throughout the country between 1989 and 1990. It defined corruption as a "conduct or practice by a public official or private individual done in flagrant violation of existing rules and procedures for the realization of personal or group gain." In a 1991 Government White Paper, the PSRRC published a report outlining 225 specific recommendations to eliminate corruption.

The first step in the reform process involved a review of all government ministries to evaluate their roles and determine which activities should be privatized or shared. At the district level, similar reviews were conducted to reconsider the role of government, set objectives and priorities, agree on performance indicators, remove redundant staff and focus more closely on capacity-building.

In the first two years, reform moved slowly. The PSRRC's "action plan" did not clearly identify those responsible for implementation or time tables. However, the appointment of an external chief technical advisor, supported by the donor community, helped to better focus the report's broad recommendations. As a result, two overriding objectives were established: a minimum wage and the introduction of results-oriented management. Both were intended to improve delivery of the services to the public.

The next step involved the development of a 50-page manual entitled, *Management of Change: Context, Vision, Strategy and Plan*. Written by senior government staff and supported by a detailed action program, the document delineated the problems, proposed specific solutions and set a time table to accomplish the suggested goals. It received political approval from the Presidential Cabinet in August 1993.

The components, their implementation and outcomes of this

action program have been as follows

Reducing the Size of the Public Sector

The role of Uganda's government is being redefined and limited. "Non-core" public services will either be turned over to the private sector or abandoned. The restructuring of the government has reduced the number of ministries and departments from 26 to 20 in 1991 and to 18 in 1992.

Staffing has also been streamlined. The President appointed panels of prominent citizens to implement new staffing levels for the restructured ministries. They conducted interviews to identify those positions which should remain. As a result, the civil service shrank from 320,000 employees in 1990 to 150,000 in 1995. The plan is to have the staff down to 132,000 workers by 1997.

Personnel reductions were achieved through a number of measures. For example, "overdue leavers" were the first to be targeted. These are individuals who, if the civil service had been functioning efficiently, would have been weeded out much earlier--eligible retirees, temporary workers, and the incompetent, as identified through performance assessments. By 1995, the list included 6,339 employees in the central establishment, 7,241 teaching staff members, and 11 of the 32 Permanent Secretaries.

"Ghost workers" were identified and eliminated. By 1994, approximately 42,000 deceased, fictitious or former employees remained on the government payroll. The "Group Employees Scheme," which allowed senior managers to recruit their own casual, short-term workers without reference to established job grades, was abolished. This led to a further reduction of 30,000 workers.

Other workers that were surplus simply due to overhiring were laid off. Although these employees were competent, *bona fide* workers, they could not be deployed elsewhere in the government and received severance packages. In addition, approximately 4,500

employees accepted voluntary retirement by the end of 1994. Now there is a public sector-wide hiring freeze and exceptions require the personal consent of the head of the civil service.

Civil Service Integrating Responsibility and Accountability

A modern management system was introduced to the civil service. Results-Oriented Management (ROM) was designed to improve the efficiency and performance of government employees, create a responsive and accountable work force, and establish a system that quickly exposes corrupt and inefficient practices. Under the new system, each ministry defines its objectives and sets measurable performance standards and goals for each objective. How targeted goals are achieved within the departments/district and ultimately by individual civil servants is decided within each ministry. Progress is then measured against standards and targets established for types and levels of service by baseline indicators (obtained through a service-delivery survey).

Ministries were given new authority to plan and fully control their staffing and other resources through their program plans. Permanent secretaries, senior civil servants in each department, "operate as quasi-managing directors of their respective ministries and are free to determine the optimum resources needed to meet their set ministerial targets. Permanent secretaries will be assessed on the achievement of the set targets within the allocated resources over a given time frame." Thus, every permanent secretary "will seek to be as efficient as possible. This will, therefore, ensure improved value for money."

The work of individual civil servants is also evaluated against objectives and performance indicators or standards. Promotion is clearly linked to performance with incentives to reward superior performance within individual salary scales. Employees who don't measure up, or who engage in dubious practices, are subject to disciplinary action including dismissal.

In addition to ROM, more direct controls on financial

operations have been introduced and existing systems strengthened. For example, in its first three years of operation, the central payroll monitoring unit for government employees, located in the Ministry of Public Service and Administration brought about a reduction of 25,000 from the ranks of the Ugandan Teaching Service. The computerized monitoring system, which verifies entries and deletions from the payroll and monitors all changes, precluded a recurrence of the costly "ghost worker" phenomenon.

Auditing functions were reinforced throughout the government. The Auditor General's office is now free to perform more vigorous examinations of accounts. However, resources are still inadequate and often there is lax enforcement of auditing systems.

A Living Wage Reduces Dishonesty

Between 1990 and 1994, civil service wages increased annually approximately fifty percent. Paying a "living wage" has been one of the most critical issues in the reform program. Low civil service wages have been directly linked to corruption. In 1994, attendees at a Donor Consultative Group meeting in Paris agreed the consequences of delaying pay increases would be fatal to the entire reform program. If wages were not an integral part of improvements early, civil servants might withdraw support for the entire program and the pressure to obtain "supplementary income" may increase. More important, civil service would remain unable to attract and retain the highest level of professionals and technicians. Donors concluded their support of pay increases was essential to the broader program of civil service and macroeconomic reform.

Even with donors' endorsement, government salaries in Uganda remain among the lowest in sub-Saharan Africa. For many occupations, public pay is well below the minimum wage in the private sector. In 1994, government doctors, police officers and primary school teachers earned the equivalent of US\$90, US\$45, and US\$43 per month respectively. The governments' estimate of the minimum income required to support an individual was 75,000

Ugandan shillings, or US\$60. At these levels of compensation, the government cannot attract the best people, nor can it combat secondary corruption, most common to the lower-paid job classifications. It is also unrealistic to expect civil servants earning these wages to work solely for the government.

A minimum "living wage" is one of the chief objectives in the current round of civil service changes. The criteria for a minimum acceptable salary is based on a food basket/cost-of-living survey carried out in 1989-90 and begins with the lowest job classification. Scheduled increases will compensate for inflation and differences in urban and rural locations. However, reaching this target is jeopardized by poor tax collection. Tax revenue in Uganda, as a percentage of GDP, is the lowest among 26 African countries receiving World Bank structural adjustment credits and is three times lower than neighboring Kenya. Therefore, to help improve the chances of reaching its wage goals, in 1994 government officials announced cuts in the civil service work force, eliminating an extra 5,000 employees. The 1995 total would be 145,000 instead of the targeted 150,000 and the savings used to sustain better remuneration for those who remain. Actual salaries will be made more transparent by "monetizing" workers' housing, health and transportation benefits. In addition, cash allowances (seventy-six in total) issued according to assigned tasks and occupation, are being consolidated into fewer categories. These streamlining measures are designed to improve transparency while controlling abuse. Job classifications and positions are also being reviewed and simplified to improve incentives for better performance.

A Code of Conduct

A code of conduct has been established for all civil servants. Each employee must take an oath of commitment to it and if dismissed for breaching the code, is prohibited from government service for at least five years. Based on the principle of selfless service, the code of conduct correlates to the standing orders of the civil service which state that

" no officer shall at any time engage in any activity which could in any way impair his usefulness as a public officer or engage in any occupation or undertaking which might in any way conflict with the interest of the public service or be inconsistent with his position as a public officer, or make use of his official position to further his private interests or those of his family "

Workshops have been held across the country to introduce the code to senior government managers and to focus on their role as leaders in civil service reform and Results-Oriented Management

Information and Communication Strategies

The public, civil servants, and the donor community have been regularly informed of developments in the reform effort. Publications and television reports describe the government's progress toward implementing the action plan. Direct, accurate, and timely news stories are intended to help achieve transparency and encourage continued progress.

3 *Introducing a Leadership Code of Conduct*

Despite the good intentions of the government, the Leadership Code of Conduct was not enacted into legislation¹² The debate in the Constituent Assembly focused mainly on the sincerity of those politicians who have raised objections to some of its provisions, especially that which requires close relatives to declare their assets Discussions have been marked by considerable hostility, conveying the impression that Uganda's politicians are not keen to be restricted in this way Furthermore, there are no stipulations to enforce the code However, in anticipation of its passage, the Attorney General of Uganda has proposed the formation of a committee (appointed by the President) with the following functions

- to examine statements lodged with it,
- to examine whether a leader's intention to enter into a contract with the government, a public body, or a foreign business organization conforms with code,
- to inquire or request an inquiry into all complaints made by any person alleging a breach of this code by any leader,
- to investigate and report on any allegations of arrogant, outrageous, infamous or disgraceful conduct or any other behavior of a leader that is incompatible with the code, and
- to recommend awards, disbursements and payments that it considers appropriate in connection with any assistance rendered in the enforcement of the code

In addition to a chapter based on the proposed leadership statute, the Constitution adopted in 1995 includes another provision to promote greater integrity within public service The provision directs the Parliament to establish a National Council of State to review the backgrounds and qualifications of individuals seeking,

¹² However, leadership standards were included in the 1995 constitution See below

or being considered for, political office or senior positions in government. If this law is enforced, any candidate with a questionable background, where there is suspicion of dishonesty or corruption, will be disqualified during the screening stage.

4 *The Role of the Director of Public Prosecutions*

Uganda's Director of Public Prosecutions, Alfred P W Nasaba, has observed that while the legal framework is generally adequate, prosecutors have been hampered by the laws of evidence, particularly the accomplice rule. This rule states that the testimony of an accomplice must be corroborated by independent evidence before obtaining a conviction. Mr Nasaba comments "In cases of corruption, both the giver and recipient are accomplices. If corrupt people are to be convicted, this rule should be changed to allow an accomplice to give credible evidence against corrupt officials or persons."

It is vital that only those officials free from the taint of corruption, are responsible for malfeasance cases. Investigators, prosecutors and judges, especially those dealing with these types of cases, must be of transparent integrity. Too often, this has not been the case. Moreover, if evidentiary standards are changed, controls are nevertheless needed on the effect of testimony by interested parties or co-conspirators.

5 *The Auditor General*

The Auditor General's annual reports to the Parliament have regularly exposed corruption and inefficiencies. In 1992, for example, he exposed approximately \$4 million in missing funds. To aid the work of the Auditor General, the inspectorate system has been reinstated after many years of neglect. Checks are conducted regularly to ascertain, for example, whether funds are being used for the purposes intended and whether the recipients of payments are actually working.

6 *The Public Accounts Committee*

The Public Accounts Committee has been actively investigating the misuse of public funds. However, no members of the opposition parties serve on the Committee which weakens its effectiveness, credibility and accountability. Moreover, the government is not yet legally obligated to implement its recommendations.

7 *Other Government Reforms*

Economic Reforms and Liberalization

A series of macroeconomic modifications have been gradually eliminating numerous distortions which encourage corruption. Changes include the elimination of monopolies, allowing competition between the private sector and the state to trade basic commodities, and abolishing quota systems and importation rights on certain products. Export monopolies in traditional commodities (coffee, cotton) have ended, procedures have been simplified, and new regulations encourage investment in export-oriented activities.

The privatization of parastatals has reduced total state control over the economy as have other liberal measures: the removal of price controls, both direct and indirect on major, locally manufactured products, an end to the monopoly of exported foodstuffs, the elimination of the Coffee Marketing Board, and, the deregulation of foreign exchange markets. As a result, confidence in the Ugandan shilling has returned and funds held abroad are now flowing back into the country.

The government has also sought to "de-personalize" the delivery of services. Customers should not have to contact any particular official for information that should be easily obtained through posters, notices or other information bulletins.

Changes in the Military

By reducing military spending, the government has sought to better utilize funds and diminish the role of the military in political life. Military spending was reduced from 35% of GNP in 1990 to 16% in 1994 through demobilization and other measures. Under a plan approved by the NRA Council in May 1992, the government is reducing the military establishment by 40% to 50,000 personnel over a three-year period, a savings of \$14m per year.

Decentralization

Decentralization is important in the fight against corruption because public sector decision-making in Uganda has been largely secret, through highly centralized institutions with little accountability. The government has embarked on a major program to decentralize the administration and delivery of many public services.

The success of this effort depends on a process of institution-building now under way at the regional levels, improved communication between civil servants and local authorities, and, increased interaction between public and local institutions to ensure that needs and priorities are coordinated.

Although some progress has been made, many difficulties remain. Physical facilities are inadequate in many regional districts, and managerial and technical skills are deficient. But more important, it is difficult to manage the devolution of power at a time when the central government is undergoing radical change.

The success of decentralization will depend on the ability of district-level structures to deliver services responsively and accountably to their designated populations. As such, the channels of communication are being widened, citizens are encouraged to participate in District Resistance Council meetings, and, regular consultations are scheduled between local councilors, civil servants, and non-governmental organizations (NGOs). Whether these

measures will succeed remains to be determined

8 *The Role of the Press*

Government-controlled media have also been fairly free to expose abuses of public office and reports frequently on the fight against corruption. The efforts of one paper, *Uganda Confidential*, have been especially striking.

At the same time, the full potential of the media has not been realized. Because a free press is a new phenomenon, professional journalistic techniques lack an unbiased, investigative approach. There are cases where professionalism has been sabotaged as underpaid reporters and editors succumb to bribery.¹³ Some reports even border on slander. In addition, public officials have, until recently, been unavailable to answer reporters' questions. Journalists have not been fully informed of anticorruption measures or the details of public sector reform.

The Government sponsored two workshops on investigative journalism, with the assistance of the IGG, the Ugandan Journalists Association, the Danish media, DANIDA (the Danish aid agency), the World Bank's Economic Development Institute, and Transparency International to improve the effectiveness of the press. The workshops, one of the first opportunities for journalists to question senior government officials, helped to better inform the press of the overall reform program and provide journalists with some training in investigative reporting. Four themes were stressed during the workshops: 1) the need to promote a professional awareness of, and insight into, corruption and the institutions fighting it, 2) the importance of improving professional techniques to obtain information ethically, respect privacy, check references

¹³ Concerns of a similar nature have arisen in industrialized countries but for different reasons. Corporations in the U.S. and political figures in Italy, for example, are widely feared to exercise undue influence on news reporting.

and avoid litigation, 3) the need to promote a sense of commitment and responsibility among journalists, and, 4) the need to inform journalists about civil service reform, its impact on the country's welfare and its role in reducing corruption

9 *The Role of the President*

The President has systematically removed corrupt politicians from senior positions. However, some individuals in office who are known for their questionable activities have not been removed. Arguably, removing them may cause considerable harm to national unity and stability--a paramount objective for the government. However, their presence undermines public confidence in the leadership's political commitment to deal with corruption.

Assessment of Uganda's Efforts to Combat Corruption

Remarkable progress has been made in reducing malfeasance in this society and it is useful to other reform movements to examine the catalysts for change.

The role of the Inspector General of Government has been crucial in institutionalizing the fight against corruption. The IGG's office took the lead in marshaling support and integrating key players. They held workshops on media education and investigative journalism, and strengthened agencies fighting abuses by making available to them logistics and personnel. These workshops helped to chart a plan of action that has been followed vigorously.

The government has involved civil society in the fight against corruption. The government stimulated district support by conducting seminars on people's rights and responsibilities. Consequently, civil society plays a significant role in exposing corrupt individuals and behavior. Public awareness workshops taught and promoted ethical values in schools. Given that Uganda

has been engaged in war and civil strife for almost three decades, most children and young adults have seen nothing but hate and destruction and immoral behavior as a way of life. Schools and religious institutions can play a big role in reinvigorating morals in Ugandan society. In 1987, the Education Policy Review Commission recommended schools promote honesty, a sense of responsibility, integrity in the use of public funds and property, love for productive and constructive work, and respect for those who labor to produce material, intellectual and social welfare. This decision recognizes the need to build and sustain a strong civil society in Uganda.

The Public Accounts Committee (PAC) has been vigorous in demanding proper accountability of government expenditures from Ministries and Government agencies. Many senior officials have been prosecuted and dismissed as a result of its efficient work. To ensure its continued success, the PAC has been decentralized, and there are now District Accounts Committees. This has strengthened the auditing function at all levels of Government and society. Consequently, it is becoming increasingly difficult for aberrant behavior to go unnoticed. Similarly, the Auditor General plays a key role in tracking all government transactions and submitting timely, accurate reports to Parliament.

The media and press have been at the forefront in exposing corruption. The Government, through the IGG, has equipped journalists with skills in investigation that expose not only corrupt people but their methods. Its wide coverage reaches the breadth of Uganda within a short time since there are more newspapers in more languages than ever before. However, there are currently many pending lawsuits, possibly indicating some unprofessionalism.

Finally, the role of external forces, international agencies and donors, need to be recognized, in this fight. The World Bank, the Government of Denmark, and Transparency International have all been extremely supportive. Transparency International has been outspoken and instrumental in organizing action and support. Its

staff has helped conduct workshops that chart new actions and out of their work Uganda has started its own chapter, Transparency Uganda

Lessons Learned from Uganda

- The fight against corruption is neither simple nor straightforward. The process has to be gradual. Programs that are too ambitious and call for overnight changes will not succeed.

- There must be political will. No legislative or administrative changes can ever be effective unless there is a political will and commitment at all levels of government.

- Legal reforms are just part of the solution and they are unlikely to be effective unless accompanied by sustainable measures designed with methods for implementation which maximize accountability and transparency, and minimize vulnerable areas.

- Corruption has to be a "high risk, low profit" undertaking. If people perceive it as a low risk, high profit activity they will be attracted.

- A holistic approach is needed. All the forces and agencies fighting corruption--prevention, investigation, research, education, enforcement, etc., need to come together and harmonize their efforts and complement each other to develop one strategy. This prevents duplication of efforts and a waste of government funds.

- Public awareness and involvement are paramount. If the public is sensitized, they contribute by exposing corruption and corrupt behavior in society.

3.4 Bolivia Healing Sick Institutions in La Paz¹⁴

The situation in La Paz in 1985 was undeniably grave¹⁵. The city had just experienced the first democratic election in 40 years, with Ronald MacLean-Abaroa as the new mayor. Bolivia's hyperinflation had been staunchly resisted by a remarkable austerity program. But these welcome changes coincided with a city in crisis. As Mayor MacLean-Abaroa took office, the city's payroll was 120 percent of its revenues. This despite miserable wages eroded by the inflation: a city engineer might earn only \$30 per month, and the mayor's salary was less than \$100 per month. Previous mayors had added more and more employees for political reasons. In 1985 the city employed about 5700 people, 4000 of whom were workers.

The municipal government was a cornucopia of corruption. Public works, carried out for the most part by the city, featured everything from theft of parts and fuel to fraudulent fulfillment of quality standards, in addition to great inefficiency. Tax collection was rife with fixes (a lower assessment on your house in exchange for a bribe) to speed money (the city collected taxes itself, and paying sometimes involved standing in long queues). Applications for permits and licenses were often delayed unless speed money was paid, and finally obtaining the permit or license often entailed another bribe. Procurement involved many arcane steps and little transparency, resulting in bribes and extortion for obtaining a contract and then, after performing the work, bribes in order to get paid. Personnel systems often worked on the basis of friendship or political influence, there was little tradition of professionalism. Auditing and investigations were lax and themselves subject to

¹⁴ Edited case prepared by Prof. Robert Klitgaard with the assistance of Mayor Ronald MacLean-Abaroa, March 1996. ©Robert Klitgaard. All rights reserved.

¹⁵ See description in Section 2.2 above.

corruption. Finally, some senior executives and some city council members used their positions to move favored applications and vendors through the system in exchange for monetary and other illicit considerations.

Needless to say, under these circumstances the city was failing in all its missions. Faced with such systematic corruption, many people would simply give up. Or they would call for institutional strengthening through what might be called a “supply-side strategy”—in other words, *more* more training, more foreign experts, more computers, more regulations—and of course for a code of ethics and a recasting of attitudes.

Mayor MacLean’s Strategy

Mayor MacLean-Abaroa understood that at the heart of institutional rot are broken-down systems of information and incentives.

Diagnosis

Mayor MacLean-Abaroa’s first step was to undertake a number of diagnostic activities. Where was the corruption, how bad was it, what were its causes and possible cures? Workshops with senior officials gathered useful information and also motivated these officials to devise their own strategies for reform. Box 1 shows the results of one diagnostic session.

Please refer to Box 1 at the end of the case

Special studies also helped, ranging from the highly informal (interviews with secretaries, a repository of institutional knowledge about transgressions) to systems analyses of procurement.

Strategy

After sizing up his daunting problems, Mayor MacLean-Abaroa analyzed each of the city’s major activities (for example, works, revenue collection, permits and licenses, procurement, auditing and evaluation). He used the framework for policy

analysis summarized in Table 1 of the Annex to stimulate new thinking

The city government undertook a number of impressive steps toward improvement

Works The mayor used the city's financial crisis to excuse the firing of large numbers of employees, particularly laborers in the works area. He took this opportunity to redefine the city's mission as carrying out emergency repairs but not major projects. In the latter case, it would supervise but not undertake the works. Mayor MacLean-Abaroa obtained foreign aid for municipal works and for the reform of city administration. He used some of this money to "top up" the salaries of key officials. It was then possible to pay high-enough wages to attract real talent to the important jobs of planning and overseeing public works.

Which works? Mayor MacLean-Abaroa used a variety of techniques to estimate the value of various kinds of works to neighborhoods and to the city more generally. These techniques ranged from surveys of local groups to benefit-cost studies using high-powered outside advisers.

Revenue collection Revenue collection was assigned to banks rather than city employees, reducing the scope for bribery and extortion by city officials. The complicated system for evaluating the value of property was replaced with an "auto-evaluation," wherein citizens would declare the value of their properties under the veiled threat that the city might purchase their properties for 1½ times the declared value. The result was a remarkable increase in city revenues.

Permits and licenses The mayor deregulated some activities, so that no permits were required and no bribes could be extorted. He abolished the office of price control.

He developed a single register of all applications for permits and licenses. Applicants would come to a desk staffed by registry employees, not by those actually evaluating and granting

permits and licenses. Each application was entered into a system that enabled its progress to be monitored. The scope for bribetaking was reduced, and the information gathered through the system could be used to help evaluate the performance of offices and individual employees. The system was never fully implemented, but it did make a difference. He undertook a great effort to simplify and streamline the granting of permits and licenses. Then he published a "Manual for Paceaños" which described each process in detail, so citizens knew what to expect and were less easily extorted based on their ignorance.

For building permits, he involved private-sector architects under the aegis of the College of Architects. They took some responsibility for reviewing and warranting the quality and legality of the construction plans, and the addition of about 100 private sector architects speeded up approvals and improved, at least temporarily, the quality of the reviews.

Procurement Systems that formerly took many steps, very difficult to monitor, were simplified to fewer steps, with more effort at monitoring carefully each step.

Personnel Efforts were made to professionalize the city's staff through meritocratic recruitment and promotion. Young people were brought in under a plan called "Bolivia Jóven." Thanks to personnel cuts, enhanced revenues, and foreign aid, salaries were raised, to the point that within two years they were competitive with the private sector. Training was radically increased, and a special program funded by the World Bank had as a central objective the upgrading of city personnel. A new Institute for Municipal Training was set up.

Auditing A project was undertaken with a major consulting firm to design and implement an integrated financial management system, running from requests for materials and works through their procurement, warehousing, and supervising. Unfortunately, this system was not completed before MacLean-Abaroa left office.

Implementation

Mayor MacLean-Abaroa followed a sensible implementation strategy as well. He aligned with favorable national and international forces. He “fried some big fish” early on, and used their example to send a message that the old corrupt systems had changed. He didn’t attack his bureaucracy but helped it first, then went after corruption through a preventive strategy of systems reforms. He recovered a major city plan that had languished for eight years, including a number of large-scale studies that helped organize thinking about needed works and services.

The results were remarkable. Investment was up by a factor of ten within three years. Revenues soared. City salaries were competitive with the private sector within two years. By all reports, corruption was reduced. And Mayor MacLean-Abaroa was reelected twice.

Table 2 of the Annex summarizes the steps to follow in an effort to prevent corruption. There is no recipe book here, rather a set of suggestions designed to stimulate new thinking by public and private leaders.

Sustaining Reforms over the Long Term

In 1995, Ronald MacLean-Abaroa decided to stand again for mayor of La Paz. In the event, no candidate won a majority vote. MacLean-Abaroa defeated the incumbent mayor in a vote among the eleven elected city councilors.

He was struck by the reemergence of corruption. A senior member of the mayor’s staff said, “I know you all faced tremendous problems back in 1985 and things were quite bad then, but I think we have to begin from zero all over again. The situation is that bad. “Just to give you an example. I would guess that 95 percent of the vehicles of the Alcaldia have the odometers and the speedometers and the starters broken. Why? So they can claim for gasoline. We spend a fortune on gasoline. Some of it is in ridiculously large

allowances My job, for instance, used to grant 600 liters of fuel per month We've cut that down to 200 liters, and that's plenty The city vehicles all want to look as though they've been running all the time And everyone is claiming for overtime, and breakfasts and lunches because they're working ”

There were worse examples of institutional decay

Works The Chamber of Construction, a group of private firms, had made public complaints in the previous administration concerning extortion None had been heeded According to some people inside the municipality, getting contracts requires a bribe of 10 to 15 percent When works are completed and payment is to be made, a bribe of 10 percent is often sought “for the party ” (The threat of non-payment is real, as the city's short-term debt including non-payment has risen sharply in the last two years)

Revenue collection The “auto-evaluation” system eroded when it became clear that the city had no effective penalty for understating the value of one's property (The threat to buy the property for 1½ times its declared value turned out to be illegal) In 1995 a new system was installed that provided “automatic” valuations depending on self-declared housing characteristics The result was a large number of much higher tax assessments for the poor and lower-middle class Large protests followed, and thousands of individual complaints had to be addressed, usually by simply adjusting the assessment downward Public anger continued, and one member of the previous administration believes that the bad taste of this episode led to the incumbent mayor's defeat In any case, a form of tax evasion through underdeclaration led to an estimated shortfall of at least 100 percent in property tax revenues

Permits and licenses The single registry for applications for permits and licenses and other transactions had broken down completely The official in charge described, in a memorandum in February 1996, an “almost infinite” list of reasons, which revolved around the rapid rotation of officials seeking their own and their party's interest in obtaining bribes It is now routine—“all the time,

every day”—to pay speed money of B 200 (about \$40) for the “revision of paperwork ”

The system of the architects evaluating building plans had lost its effectiveness. The architects still took a slice of the fee paid by all those seeking building permits, but apparently they simply checked that the square meters declared were correct (and that the correct fee was paid). When asked to live up to the original agreement to confirm the quality and legality of the plans, the College of Architects now complained that it did not want corruption moved from the city government to the College (However, the College did wish to continue receiving its slice)

Procurement Collusion had become common. Outsiders who submitted lower bids were rejected by corrupted municipal personnel according to vague standards of quality. As mentioned above, bid-padding coexisted with bribes at both the award and payment stages.

Personnel Salaries remained relatively high, but pay and promotion were not linked with performance. Instead, political appointments were so common that an estimated 40 percent of managerial and technical employees had been replaced by the previous administration, and an estimated 70 percent turned over in the administration before that. Secretaries were told that they would not receive pay raises unless they inscribed in the mayor’s political party. Why was this not the source of outraged, public complaint? The simple reason is that any idea of career paths had broken down. As one secretary put it, “For four years we’ve lived with controlled minds and closed mouths. If anyone would make a complaint [about illicit activities] he would lose his job. But everyone would comment to each other privately about what was going on.”

Moreover, the internal systems for investigating complaints and for auditing had become victims of influence and incompetence. The accounts and records were now virtually useless, according to a team of experts working on the integrated system of financial management. Which, by the way, still had not

been put into place after four years. The design had not been completed entirely, but another reason was “resistance by city employees who do not for their own reasons wish to be part of a system of financial management.”

There was also centralized corruption. “The previous mayor set up an office called OPCC, the Office of Planning, Coordination, and Control,” related the new director of this office. “OPCC centralized everything, every decision. At the end every permit and every license and every contract had to be approved there. This became the source of much abuse. We’ve nicknamed it the Office of Planning and Collection of Commissions.”

True, the situation was better than in 1985. Some of the reforms undertaken then had stuck. The deregulation of some areas of the city economy permanently removed the corruption that formerly attended the enforcement of those regulations. Cutting back the role of the city government in other ways also helped. For example, the city had not returned to being a major construction company, although its stock of equipment had been enlarged through a foreign aid project. But unfortunately the process of letting and supervising works projects had deteriorated, and major forms of corruption had emerged again.

In a poll of Paceños in February 1996, 50 percent of the population agreed that “the level of corruption with respect to the past is worse.” Another 43 percent said it was the same. No one said it was better—the other 7 percent said “don’t know.” (The poll was referring to all levels of government, not just the city.) Some 74 percent of the respondents said that Bolivian politicians are less honest than those in other parts of Latin America. When asked whether the primary motive of politicians was public service, “economic ambition,” or “ambition for power,” 84 percent of male respondents and 52 percent of females said “economic ambition.”

Only 9 percent of the combined sample said “public service”¹⁶

Not surprisingly, the mismanagement and corruption in La Paz was accompanied by an alarming trend in city finances. Mayor MacLean-Abaroa’s last full year in office was 1990 (under Bolivian law in 1991 he had to resign about half way through the year in order to become a candidate for re-election). From 1990 to 1995, the deficit of expenditures over current income (excluding capital transfers and foreign aid) rose from approximately \$1.2 million (4 percent of current income) to about \$40.7 million (87 percent of current income). Over the same period and again using current dollars, total investment moved from \$10.4 million to \$14.6 million, whereas current expenditures grew much faster, from \$8.5 million to \$32.0 million in 1995.

What had gone wrong? And what could be done now to deal with the problems?

Lessons Learned

The La Paz case demonstrates two lessons. First, a significant dent can be made in systematic corruption. Second, over time and under new leadership, some of the anti-corruption measures may become distorted and actually turn into sources of other forms of corruption. This raises a host of questions. Why is there backsliding? What are the implications for designing anti-corruption policies?

The difficulty of sustaining policies across administrations does not of course only adhere to anti-corruption efforts. According to one recent, pessimistic review, very few cities in developing countries seem able to maintain short-term success along any dimension. Success stories such as “Curitiba, the Indian city of Bangalore, and a few other examples may indicate that the real

¹⁶ “Los paceños ya no creen en nadie,” *Ultima Hora* special report 18 February 1996, pp. 18-19. The poll was taken using an age-stratified random sample of adults from 18 to 65 years old from the four zones of the city “and of the middle class.” The sample size was not indicated.

problem facing poorer cities is not so much population growth or their resource base but a lack of competent leadership and sound regulations and policies that last beyond one administration”¹⁷ Beyond a lack of leadership, Linden blames the problems for being, in general, too difficult for cities in developing countries—migration, poverty, ecological setbacks, highly mobile international investment, stagnant food production, and rising crime and civil strife

Is this also true of corruption? Is it simply too hard to overcome in a sustainable way?

The first point is that city governments will remain relatively lucrative, relatively vulnerable targets for the unscrupulous. Compared with national governments, municipal administrative systems are usually weaker. Pay scales for professionals are lower, leading to lower-quality personnel on average. Because of scale effects, the possibilities for co-optation by local elites or local populists seems higher. For better or worse, cities in many countries are the most accessible form of state power and wealth. In the hands of unscrupulous opportunists or idealists unable to manage, city governments can easily become the sites of petty tyrannies or systematic corruption or both. The threats are endemic.

An economic approach to corruption asks that we focus on the ability to create monopoly rents, exercise discretion, and avoid accountability. Getting the government out of (monopoly) businesses in which (competitive) firms can provide the service is one useful idea. Taking into account the possible corruption of any regulation may well lead to deregulating, to an extent greater than would be optimal in a perfectly functioning state. On the other hand, privatizing and deregulating carry their own risks of corruption, inefficiency, and injustice.

¹⁷ Eugene Linden, “The Exploding Cities of the Developing World,” *Foreign Affairs*, Vol 75, No 1 (Jan -Feb 1996), p 63

In the short term, inspired leaders can change information and incentives in such a way that monopoly rents are reduced. But in the longer term, if leadership changes, anti-corruption efforts can be disassembled. The single registry of all transactions was dismantled in La Paz, and plans for an integrated financial management system have still not borne fruit. Taxpayers undermined the “auto-evaluation” of their properties, and the lack of systematic record-keeping made it impossible for the authorities to keep longitudinal records and check them. (Tax officials may well have preferred to keep things disorganized, so they could extort bribes from individuals in exchange for lower tax payments.) Meritocratic hiring and promotion practices were subverted.

Not only can anti-corruption measures be dismantled, they can also themselves become corrupted. In La Paz the topping-up of salaries of officials in key technical positions was an important step in turning the city around. But by 1991 it became the source of political controversy and a campaign issue (as in many cases when people make a decent living in government) and then, after the change of mayors, the vehicle for patronage and nepotism. The idea of combining privatization with strict regulation can be corrupted first by subverting the bidding and awarding processes and then by invalidating the supervision and quality control functions of government. A centralized system for managing all procurement can, of course, become its own corrupt monopoly.

The forces of democratic elections and economic competition do provide some solace. Local tyrannies are constrained by the democratic process, even when populist and redistributive issues take center stage. A competitive economy will tend to overthrow cartels and collusive arrangements, at least if minimal efforts are made at providing transparency in government-business relationships. And yet, as ancient and modern philosophers have described, democracy is no guarantee against corruption.¹⁸

¹⁸ Bernardino Bravo, “Democracia ¿Antídoto frente a la corrupción?” *Estudios Políticos*, No. 52 (Primavera 1993), p. 299-308.

The long-term solutions to retrogression would seem to lie in creating structures of self-interest that build on democratic and free-market principles. To the extent that citizens who are victims of corruption can gain more access to, control over, and feedback to corrupted systems, then the existence of illicit activities should become more evident and the prospects for sustainable reform more promising. The business community in the broadest sense has an interest both in efficient city services and in competitive provision of goods and services in general. Naturally, the temptation will arise for free-riders to profit by providing a less valuable service or evading taxes or securing a monopoly through a bribe. But if collective action by business people can be encouraged, perhaps sometimes with help from the public sector as through the enforcement of advertising laws or quality standards or competitive behavior, then in the long run their collective interest should tend to control corruption.

Incentive structures within the city government are also crucial. One may anticipate that leaders of corrupt city governments, and more generally corrupt companies, non-government organizations, and universities, will have a greater interest in cleaning up corruption in the revenue area than elsewhere. This, indeed, seems to have been the case in La Paz. City revenues have risen, nowhere more than in the revenues raised by the city itself (as opposed to transfers from the federal government of a share of taxes raised in La Paz and nationally), such as (since 1993) property taxes and taxes on vehicles. Here the previous administration employed a high-quality director and provided him with resources and support.

The incentives facing bureaucrats are also important determinants of corruption. Mayor MacLean-Abaroa did undertake some pay-for-performance experiments, but did not institute more general systems of performance-based pay and promotion within the municipal government. The merit system was all too easy for the subsequent administrations to undermine. This suggests that a sustainable strategy will involve performance-based pay in which the public has much greater knowledge of and interest in the

maintenance of performance and the avoidance of corruption. Fees for services and voucher-style ideas are interesting options, as is the greater decentralization of city services. In general, the more the public is involved in measuring the performance of city government and the more its evaluations are listened to and transformed into financial incentives, the more resistant a city government should be to corruption and abuse.

The **information** that is needed concerns the results of city activities and employees' efforts, both in terms of positive outcomes and negative ones such as corruption. The **incentives** are an employee's and an office's rewards and punishments and how these are linked with information about results.

In La Paz there was almost no credible information about public works, tax collection, the granting of permits and licenses, the efficiency of procurement, and the abuse of office. Incentive systems have been subverted by favoritism. A remedial strategy must address these systematic shortcomings.

How might such feedback and performance indicators be facilitated? Many of the important factors will go beyond the confines of municipal government. There are analogies to transactions costs and information costs, which may be reduced by better education systems, freer press, better legal systems, better communications infrastructure, and the like. Other things equal, we should expect more client feedback the more advanced are these facilitating mechanisms.¹⁹

¹⁹ See Robert Klitgaard "Information and Incentives in Institutional Reform," in Christopher Clague ed., *Institutions and Economic Development: Applications of the New Institutional Economics to Growth and Governance in Less-Developed and Post Socialist Economies* (Baltimore: Johns Hopkins University Press, forthcoming), and Robert Klitgaard, "Institutional Adjustment and Adjusting to Institutions" Discussion Paper No. 303 (Washington D.C.: The World Bank, Sept. 1995).

Performance-based pay and promotion also depends on a significant national effort to develop appropriate measures and safeguards, as recent advances in the United States and other OECD countries indicate. Also, civil service regulations sometimes constrain the use of such schemes in developing countries.

It is therefore possible to adopt an economic perspective on corruption and explain the retrogression in terms of monopoly powers, weak information systems, and incentive systems that are easily undermined by the unscrupulous. For reasons economists can understand, the avaricious side of human nature finds a particularly hospitable environment, exceptions aside, in settings characterized by poverty, instability, and social disintegration. Moreover, good leadership and competent employees are also important. Even good systems can be subverted. As experience in many countries shows, the best organization charts may fail if employees are incompetent and unmotivated.

Leaders change, for worse as well as better, and political and other forces can lead to the replacement of competent employees by those who, even if willing, are unable to manage systems of information, control, and incentives. There is no panacea against corruption. On the other hand, "hard wiring" the appropriate incentives into organic and constitutional law can provide a check against backsliding, but only if public agencies function and the political environment supports it. If there is a sincere desire by leaders and vigilance by the public, corruption can be prevented, if never eliminated.

Box 1 TYPES OF CORRUPTION IN LA PAZ, A

<i>Type</i>	<i>Value</i>	<i>Who Is Helped</i>	<i>Who Is Hurt</i>
Tax Evasion (all kinds)	\$20 \$30m	Evaders	Recipients of city services non evaders future Pacenos
Tax arrangements (all kinds)	\$5 \$10m	Corrupt taxpayers and officials	Recipients of city services non evaders future Pacenos
Extortion	\$0 5 1m	Corrupt officials	Direct victims
Speed money	\$0 5 1m	Some taxpayers corrupt city officials substitutes for higher pay	Most taxpayers via slowdowns reputation of city government
Theft (city property parts 'boot fees by police)	\$0 5 1m	Thieves some who don't pay vehicle taxes	Recipients of city services trust in police
Procurement	\$0 5 3m	Corrupt officials and winning suppliers	Recipients of city services
'Fantasmas' late reporting to work	\$0 1 0 2m	Malingerers	Morale and reputation of city government

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3.5: The United States: Executive Branch Accountability in the Iran-Contra Affair²⁰

The various initiatives undertaken by the Reagan Administration in what has come to be known as the "Iran-Contra Affair" illustrate a fundamental failure of accountability in the United States. It provides a striking illustration of an abuse of public power for ends that, while not strictly "private," were not publicly sanctioned. Equally important, it demonstrates how a system of constitutional checks and balances is able to respond to such abuses, and what governance mechanisms can be used to reduce the discretion of policy makers.

If we apply Klitgaard's definition of corruption as *monopoly plus discretion minus accountability*, then this incident was one of the more acute examples of corruption in American politics. The sight of a Rear Admiral and a Lieutenant Colonel claiming exemption from the law and political accountability in pursuit of national security goals helped focus people's minds on the fundamental governance question of accountability of public officials. The assertion by the President, and his associates, of remarkable executive prerogatives in the area of national security requires one to revisit the question of legal and political accountability, transparency of decision-making, the discretion of policy makers, and their monopoly of powers.

The story of the Iran-Contra Affair is in some ways unique among the cases reviewed in the present volume. It concerns accountability at the very pinnacle of the political system, and in the area where discretion is most necessary -- the exercise of foreign affairs powers by the chief of state. Yet, the constitution and laws of the United States do impose requirements in this area, particular

²⁰ For a fuller discussion of the issues raised in this case study see David Fagelson, "The Constitution And National Security Covert Action In The Age of Intelligence Oversight" *Journal Of Law And Politics* Vol 5 (1989)

procedural ones, which were at issue in the affair. Presidents differ from mid-level bureaucrats in the breadth of their powers, but not the fact that those powers are subject to rules of accountability.

In addition, most who know the story would not think of it primarily as an example of *corruption*, since the stakes involved were more partisan than material. Nevertheless, it is highly relevant to the concerns of this volume. Executive power presents similar temptations and opportunities for aggrandizement everywhere. Especially in developing countries and societies undergoing rapid economic transition, decisive and unaccountable action by the executive will at times appear to be the answer to all problems of policy leadership. Yet this same use of power, untrammelled by legal or political accountability, can create an unstable environment for investment and hence contribute to economic stagnation.

The Iran-Contra Affair has never been completely resolved. Many questions remain, and discussions of the affair continue to generate political controversy. The account offered here attempts to remain close to the facts as established in the public record.²¹ Inevitably, however, some readers familiar with the story will be dissatisfied. Imperfect though it is, this case illustrates how corruption arises in even very powerful developed countries, and how it is addressed. It also shows how the fundamental logic of corruption applies across the governance spectrum, from minute bureaucratic interactions to policymaking in the highest office of the land. These problems arouse controversy and prove difficult to put to rest -- everywhere.

The Governance Background

The United States Constitution vests the power to make

²¹ Conclusions about the actions and intentions of actors involved in the affair are based on the record contained in the U.S. Congress *Report of the Congressional Committees Investigating the Iran Contra Affair (Iran-Contra Report)* and the report of the President's Special Review Board ("Tower Commission Report" 1987).

laws in the Congress, and the power to implement them in the Executive. Even though foreign relations consists of more than passing and implementing laws, this separation of powers applies generally without distinction as to domestic or foreign activities. But the powers to make and implement laws are themselves subordinate to the law.

Yet there is no guarantee that the practice of international relations can live up to even such basic expectations. Certain characteristics inherent in the foreign policy process itself undermine the capacity for accountability and create a tendency for monopolistic authority by government officials. Perhaps no government activity epitomizes these concerns more acutely than covert activity undertaken by the Central Intelligence Agency, the National Security Council and other government entities. The concept of clandestine executive action is not alien to legal or political accountability. It is partly the executive's ability to carry out actions secretly and with dispatch that makes it so well-suited to the conduct of diplomacy.²² These attributes also made the executive the logical institution to act as Commander in Chief. But in order to reduce the discretion of officials who hold a monopoly of power, the American Constitution dictates that the person who leads the troops and who speaks for the nation be accountable politically to the public, and legally bound by the laws which empower him or her. A central aspect of covert action has historically been that, at least on paper, it is shielded from the President and hence can be disavowed with impunity.²³ This idea of "plausible deniability" undermines the idea of presidential accountability because it permits the President to deny responsibility for his own actions.

This concept of deniability was the crux of the problem in the

²² Edward S. Corwin, *The President's Control of Foreign Relations*, p. 216.

²³ Morton Halperin, "Covert Intelligence and Operations" in None of Your Business: Government Secrecy in America, Norman Dorsen and Stephen Gillers ed., (New York: Viking Press, 1974), p. 111.

Iran/Contra Affair For in this circumstance the President, or persons acting on his behalf, when faced with lawful checks on his authority by another branch of government, attempted to circumvent limitations on his discretion by keeping activities secret In this affair, the Administration used secrecy not to prevent exposure to foreign adversaries, or at least not solely for that purpose, but to evade accountability to governance institutions

The Problem Unaccountable Public Agencies

Given the sensitivity of foreign diplomacy, Congress has traditionally been unwilling to interfere in what were considered to be the prerogatives of the executive as commander in chief This ambivalence about intelligence oversight was reflected in the attitude expressed in the 1940's by an influential legislator, Senator Leverett Saltonstall, who explained that Congressmen would prefer not to know about anything which might endanger national security²⁴ But this attitude began to change as successive Presidents became involved in covert actions which either immediately embarrassed the United States, such as the assassination attempts on Fidel Castro in Cuba, or later resulted in policy dilemmas even if they appeared successful at first blush, such as the CIA involvement in the overthrow of Salvador Allende in Chile or Mohammed Mossadeq in Iran

The repercussions of American involvement in Cuba, Guatemala, Iran and Chile motivated Congress to take tentative measures to oversee covert activities This took the form of legislation to require the President to inform the Congress before it carried out an activity One such piece of legislation, known as the Hughes-Ryan Amendment to the Foreign Assistance Act of 1974 essentially outlawed the notion of plausible deniability by requiring the President to make a "Finding" that a covert action is essential to

²⁴ Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities United States Senate Book I, Chapter XVIII, April 26, 1976, quoted in S Turner Secrecy And Democracy Houghton Mifflin Boston, 1985) p 1985

the national security of the United States, and to report the operation to Congress in a "timely manner " Successive legislation further limited covert activity and extended and codified presidential reporting requirements These reporting requirements were designed to reduce the discretion of policy makers - an ingredient of corruption - and impose accountability Both of these policy goals were supported by the governance structure created by the American Constitution In particular, the idea of *checks and balances* was built into the system by letting Congress allocate funds and oversee those projects which it funded Because covert activities were funded by Congress, it stood to reason that they should be able to monitor them

But if Congress was working through its ambivalence about the constitutional and political efficacy of monitoring covert action, no President ever entertained any doubts about either to them covert actions were an important *presidential* power Hence successive Presidents chafed under the increasing Congressional oversight and control of covert action Ronald Reagan was no exception, and was supported in this view by his Director of Central Intelligence, William Casey In particular, President Reagan's reliance on covert operations to implement foreign policy for which there was no popular consensus initiated a vicious cycle of increasing Congressional restrictions and further executive secrecy to evade those restrictions This ultimately resulted in the classic corruption of political accountability, the Iran-Contra affair

When Ronald Reagan took office in 1981, he wanted to pursue more active measures to contain the expansion of communist regimes But the American public as well as the Congress (controlled by the opposition Democratic party) was opposed to some of his more active policy proposals to overthrow or roll back existing communist governments Without the support of the American Congress it was difficult to take the all-out measures which he wanted in order to overthrow these regimes This obstacle was particularly annoying to President Reagan in Nicaragua, where the Marxist-oriented Sandinistas were tightening their control over the government A fierce opposition movement to the Sandinistas' revolutionary goals was emerging in Nicaragua, and even though

Congress was not really interested in supporting these opposition movements, President Reagan was determined to help them

Because Congress would not support and, indeed opposed aid to the opposition movement in Nicaragua, members of the Reagan Administration (possibly including the President himself) decided to initiate covert support to the opposition movement who became known as the "Contras " But unlike traditional covert operations, which are done secretly to prevent foreign governments from knowing of them, official investigation records indicate that this operation was made secret to prevent the appropriate governance mechanisms from imposing limits on its discretion The executive branch wanted to act without fetters on its freedom of action, and so the President decided to act secretly to prevent any constraints by Congress on its monopoly of power

The Reagan Administration evaded the political accountability of the Congress and the general public in a variety of ways Initially it simply engaged in obfuscation and prevarication to mislead people to believe that nothing untoward was occurring in Nicaragua So, for example, when Congress passed legislation to prohibit the use of funds to overthrow the Sandinista regime, the Administration reported that its support for the Contras was solely to interdict weapons going into El Salvador When press reports refuted this claim, the Administration attempted to discredit the reports and to suggest that its activity was being misinterpreted It began by establishing a public relations office in the State Department to create support for the Contras on Capitol Hill and with the general public Known as the Office of Public Diplomacy for Latin America and the Caribbean, it engaged in "White Propaganda" and other public relations activities, at taxpayers' expense

When this activity was exposed, it angered Congress even further, leading to its decision in October of 1983 to put a cap of \$24 million on Contra aid The Administration responded by intensifying paramilitary operations against the Sandinistas, including air attacks on Sandinista communication links and a naval arms depot, and the mining of Sandino and Corinto harbors The

revelation of CIA involvement in the mining of Nicaraguan harbors in April 1984 created a furor in Congress, which cut off all funding for the Nicaraguan Contras. With funding running out, and supplemental assistance out of the question for the time being at least, it looked like the political mechanisms had worked their will. Yet White House advisors, and perhaps the President himself, were determined to support the Contras whether or not Congress appropriated funds. And so they decided that they would have to undertake activities which the Congress had prohibited.

Those involved knew that it would be illegal to do this, particularly if Congressional funds were used, so they decided to raise money privately, and in secret, to support the Contras. This task was assigned to Lt. Col. Oliver North. Thus began a series of measures designed to continue United States covert operations--that is to say, secret from the accountable institutions of American government and civil society--in support of the Contra insurgency against the Sandinista regime.

From the outset, it was understood that some of these measures might be of questionable legality. The first efforts involved tapping foreign sources of income. But the President's advisors had to be sure that the United States did not come into possession of the privately solicited funds or else it would require Congressional approval to spend. So they decided to create a sort of private company capable of providing the covert assistance and recruited a Retired Air Force Major General to start the private commercial venture, ostensibly outside, or separate, from the United States Government, to support covertly the President's goals in Central America. This entity, known as the "Enterprise," was intended by the CIA Director to be an "off the shelf, self sustaining" covert operation capable of being used by the government when necessary.²⁵ Despite the restrictions imposed on the United States government by Congress, the Administration forged ahead with a series of measures to assist the Contra resistance forces by soliciting funds from third countries and American citizens.

²⁵ Oliver North Testimony, Hearings 100-7, Part I, 7/8/87 at 122

Once these various operations began to unravel, Marine Col North and other government officials made no more effort to respond to Congressional inquiries than they did to abide by its restrictions in the first place. The first and enduring goal which the President's national security advisors maintained right up to the Iran-Contra Congressional hearings in 1987 was to conceal as much about the operation as possible. When Congress became aware of some of these solicitation activities, it used its power of subpoena to require the President's aides to appear to explain the activity. When these executive agency officials appeared, they misled Congress about the program to solicit funds and disclaimed any knowledge of the undertaking.

GOVERNANCE IMPLICATIONS OF PRIVATE GOVERNMENT FUNDING

The spending authority is a blunt instrument to influence policy making but it is one of the legislature's most significant. The founders of the United States viewed Congress' power over the purse as the cornerstone of democratic government, since it placed the power to redress grievances and effectuate policy closest to the people. Perhaps the only power of equal significance is that of the sword. And it is because these two powers are so vast that they are separated in different government organs. Ideally, in the context of covert actions, the purpose of this power over the purse is not to have Congress micro-manage intelligence actions but rather to ensure that the Executive consults with Congress in advance on actions that involve both of their powers.

President Reagan and his advisors read the Constitution somewhat differently. While acknowledging Congress' power over the purse, the President apparently felt that the powers of the Commander in Chief can trump it, or at least avoid its restrictions under appropriate circumstances. Because the President did not recognize the spending power as a power to shape policy, he resented what he saw as an intrusion into his inviolable prerogative as Commander in Chief and he resisted Congressional attempts to work with him to fashion foreign policy.

The premise of the Enterprise was that if the United States Treasury didn't pay for it, then the Congress had no power to tell the President how to run it. Unfortunately, this logic misses the fundamental premise of Checks and Balances. The American Governance mechanism is one of mutual dependence. The Congress would rely upon the President to execute the laws, while the Executive would depend upon Congress to appropriate funds to carry on its activities. This symbiosis, it was hoped, would force each branch to consult with the other and prevent either one from assuming monopoly control. The President cannot create a separate source of funds any more than the Congress can create a separate executive body to enforce its laws. The creation of a privately funded executive agency which could operate without appropriated funds usurped Congress' spending power and violates the doctrine of separation of powers upon which accountability is based. The Enterprise puts the sword and purse together in the Executive and thus enables the President to unilaterally involve the United States in war despite Congress' exclusive power to declare it. Congress acts through appropriation and legislation.

Covert Sale of Arms to Iran For Hostages And Spare Cash

While the covert assistance was designed primarily to avoid the oversight of the legislature, albeit one controlled by the opposite party, the clandestine efforts to sell arms to the Iranians to gain the release of the Lebanese hostages and to raise money for the Contras were designed to be secret from the American public. For, while the President had convinced himself that the Congressional opposition to the Contras was ideological and partisan bickering, he was fully aware that civil society was uniformly and vehemently opposed to his policy to sell arms to the Iranians. President Reagan had campaigned for office on the principle of not negotiating with the Iranians and indeed had launched a global campaign called "Operation Staunch" to close the flow of weapons into Iran from various countries around the world. This plan was designed to secure the cooperation of other governments in an arms embargo against Tehran.

Notwithstanding this policy, on about the 8th of August, 1985, President Reagan decided to allow the sale of military supplies to Iran. But because this decision would be prohibited by Congress, who had to give its approval, and condemned by the American public, who would impose political punishment at the polls, these sales had to be transacted in secret and elaborate measures set up to hide the arms sales from detection. Trading arms for hostages not only contradicted the Administration's public stance, but it also violated the law. Hence, the need for secrecy.

Individuals acting on the President's behalf began the process by finding intermediaries willing to supply the arms in the place of the United States. They found various private intermediaries and third countries who were willing to cooperate to provide the arms to Iran. But this policy needed to be even more secret than the support for the Contras because in this case even the President's own cabinet opposed the arms sales. His secretaries of State and Defense, who were the executive branch officials with legal responsibility for the export of weapons, reacted negatively to this proposal for reasons both of policy and legality. They both

cautioned the President against future sales once they learned of them. The President responded by ignoring their advice and making the operation secret from them as well.

One ostensible but unsuccessful purpose of these sales was to gain the release of the hostages. In this respect the policy of arms sales failed. But another goal of the sales was to raise private funds to provide to the Contras. Even the CIA was reluctant to engage in this activity. When the Deputy Director of the CIA learned of his agency's involvement in the arms transfers he instructed his subordinates to do nothing further until there was a Finding authorizing CIA involvement.²⁶ As mentioned above, after the CIA involvement in Chile to overthrow the Allende regime, the Congress imposed a requirement on the President to provide a written Finding to Congress explaining why a covert operation was necessary. In this instance the President made a Finding that the operation was too sensitive to tell to Congress. The idea that a Finding could be used to exclude Congress or to justify events taken before it was made is a corruption of the principle of checks and balances. The purpose of a Finding is to subject covert actions to the political and constitutional accountability of congressional oversight. To make a Finding which itself excludes a covert action from congressional oversight turns the entire principle of accountability on its head.

The President never notified Congress of the arms sales. He argued that the sensitivity and risks of the operation continued right up to the moment it was exposed in the Lebanese newspaper, *Al Shuraa*, well over a year after the sales began, so ostensibly there was never any opportunity to report them.

²⁶ The Iran Contra Report p 185

PRESIDENTIAL CLAIM OF EXTRA-LEGAL AUTHORITY

The President took the position that covert operations gave him the authority to act outside the normal constraints of the law. But the President has no power under the Constitution as Commander in Chief or under the National Security Act to authorize illegal activities by charging his subordinates to undertake them covertly. This power exists nowhere in the Constitution, United States statutes or common law. Indeed, the idea that the President has some special power to authorize illegal activity contradicts the basic responsibility the Constitution places on the chief executive to "take care that the laws be faithfully executed."

To the framers, the President was essentially the chief magistrate charged with enforcing Congress' will, not someone entitled to ignore certain laws for reasons of national security. This important principle has often been misunderstood. If the framers had really wanted to create a powerful executive free of legislative domination, then they could have created a parliamentary system approximating the modern British model where the executive and legislature remained combined, as before, but with the legislature becoming subservient to the executive. Alternatively they could have created some sort of constitutional monarchy. This would have given the executive great powers but it was obviously not a viable option given the prevailing sentiments concerning monarchy. Underlying the hostility towards royal government was the notion of unbridled executive power which it conjured up in people's minds. The framers were in no hurry to recreate this model or anything approximating it.

This attempt to evade or finesse congressional legislation made the Administration's sales of arms and subsequent coverups illegal. But the most notorious of these legal indiscretions was the diversion of the Iranian arms sales proceeds to the Contras in Nicaragua. Instead of using the Israelis as an intermediary, the United States decided to take control of the transfers under the new Finding. Hence, they also by law became entitled to the proceeds. Nevertheless, President Reagan decided to divert this money to be spent on lethal support of the Contras.²⁷ As word of the arms began to leak and the Congress demanded verification and explanations, members of the Administration decided to lie to Congress in order to avoid detection.

The Response and Outcomes Exposure, Prosecution and Increased Mechanisms For Oversight

There is an adage which Presidents, schooled in the use and eventual exposure of covert actions pass on to their successors don't do anything which you would be embarrassed to read on the front page of the *New York Times*, because it will almost certainly appear there eventually. Like much unsolicited advice, this wisdom often goes unheeded. But in fact most of the clandestine operations were eventually exposed and when the Congress learned of them it demanded a detailed explanation of the entire affair in extensive hearings conducted jointly by both houses. These investigations outlined in detail not only the covert operations themselves, but also provided "chapter and verse" of the procedures which the Reagan Administration used to lie to Congress and indeed to dissenting members of the President's own cabinet.

The response to the exposure of the clandestine operation came on three levels first, at the level of constitutional

²⁷ There was a limited exception made for communications equipment and intelligence training. The CIA interpreted this exception not to permit them to provide specialized logistics training, The Iran Contra Report, p 405

accountability, the Congress held hearings to force the President to be accountable for his actions, second, a special prosecutor was named to impose legal accountability and ensure that those who had violated the law were prosecuted, finally the press and other elements of civil society imposed political responsibility by reporting in detail both the clandestine acts themselves and the attempts to evade exposure

The public hearings served not only to provide some outside check on the clandestine activities but also to emphasize to the President, and his successors, the certainty of exposure and the costs of being caught. The hearings were televised and followed closely by advocacy groups and those with an avid interest in politics. The President lost significant political capital as a result of the debacle surrounding the Iran-Contra affair and as a consequence further eroded the monopoly of power which he had been attempting to preserve by acting secretly to avoid accountability. The likelihood and costs of detection are more real to Presidents and their closest aides both because of the exposure and because of the prosecutions which followed. Many government officials were prosecuted for these activities and this "frying of big fish" (or perhaps medium-sized fish) sent a message to future presidential aides that the cost of compliance with the president's illegal requests will be punishment even if the President himself is spared. This has helped to focus the minds of officials within executive agencies, including the CIA and other clandestine organizations, about compliance with congressionally mandated reporting requirements.

Part of the success of this story is that the elements of civil society, acting in concert, were able to expose this affair. The media played several important roles in the response to the coverup. First, it helped to expose the covert operations to Congress and the general public. Secrecy -- both from Congress and general public -- was at the heart of the corruption of the policy system. The governance mechanism had imposed measures of accountability and the President's attempt to act with monopoly discretion. He was able to succeed only to the extent he was able to keep his actions hidden. But an active press had the capacity over time to uncover

this action and invite Congressional and public accountability. Hence, while the corruption was the attempt to act covertly in a manner which was publicly prohibited, strong accountability mechanisms in civil society made the attempt to evade legal controls impossible over the long run. Secondly, the media helped to inform the general public about the government's attempt to impose accountability so that there was a sense that some remedial measures were being taken.

But the media was helped by other elements of civil society in the form of groups who were opposed to the policies of the Reagan administration. Groups who saw it as their goal to prevent the overthrow of the Nicaraguan government or who were simply interested in open accountable government were able to gain access to information about this activity and help the media to convey it to the general public.

Lessons Learned

Constitutional principles of legal and political accountability, the balance of power between the branches, and bureaucratic practice all suggest the need for legislative oversight of all government activities and secret activities more than most. For, unlike most public policies which must be accountable to civil society as well as other government institutions, clandestine activities don't have the benefit of accountability to the general public. Hence, oversight by other government agencies is even more crucial. The strongest justification for oversight of covert activities stems from the need to preserve political accountability. This need has become all the more pressing in light of the metamorphosis of the *raison d'être* of covert action: plausible denial. When a President who is supposed to be accountable democratically to the electorate and legally to the Constitution can fashion his policy around the principle that he can disassociate himself from it, and indeed deny any knowledge of it, the foundations for corruption are laid.

Secrecy and monopoly decisionmaking authority corrupt policy in several ways. First, different branches of government,

even within the executive, which are engaged in foreign policy-making are systematically uninformed about ongoing covert activities which affect their particular missions. The lack of input from other agencies, not to mention the Congress, also undermines policy-making capability by removing the opportunity for constructive criticism or critical reflection. Some negative feedback is essential to permit decision-makers to fine-tune or alter ongoing operations, and ultimately, to control their own covert activity. The final loss compartmentation imposes on the decision-making process is the benefit of political self-correction. Secrecy by the Executive branch which denies the Congress the ability to oversee and regulate covert action produces mixed results and provides unfettered discretion to the President, which, true to Klitgaard's formula, produced the foundations of corrupt policymaking.

The American structure of governance essentially forces both the President and Congress to be accountable for government policy no matter how sensitive. The concept of plausible denial between the President and Congress is now illegal. Yet the persistent attempts to blur the chain of responsibility as illustrated by the Iran-Contra Affair reflects an impulse by government officials to retain complete discretion and avoid accountability. The temptation to use secrecy to sidestep the impediment of congressional disapproval is very strong.

Although oversight legislation is usually motivated by fiascos such as the Iran-Contra affair, which embarrassed the nation and undermined its foreign policy, its purpose is not to enact good judgment. These procedural requirements, which do not limit what the President may do, only how he may do it, prove the old adage in constitutional law that procedure is substance. For while Congress cannot practically or legally legislate good results, it can ensure that the President is held accountable for actions taken in his branch of government. Those mechanisms do not guarantee wisdom but they do provide some check on ill-advised policies such as those pursued in the Iran-Contra affair. More generally, the affair illustrates how good governance requires constant vigilance and continuing institutional innovation to keep potentially corrupt actors within the constraints of accountability.

Chapter 4: Applying Lessons from Experience in Combatting Corruption

The previous chapter reviewed the experiences of reformers confronting failures of governance in several countries. What can be gleaned from these experiences that will be useful to African officials, NGO leaders, business persons, legislators, jurists, and analysts concerned about the harms of corruption on the continent? What do these examples say about the basic institutional requirements for good governance in any given society? What overall strategies do these cases suggest? How do reformers begin to attack the problem, or intensify their efforts -- in other words, what methodologies can we begin deploying today, tomorrow, next week, and in the future? This chapter will review some of the lessons learned from the cases presented, and will suggest ways of applying them through both general approaches and specific tactics. These come from the accumulated wisdom of reformers in Africa and beyond.

After a synthesis of lessons from the case studies, immediately below, this chapter will touch on strategic issues and some methodologies for developing the information base for reform in this area. The first section identifies the most important system-wide targets for institutional reforms to control corruption and to prevent it from becoming an obstacle to economic development. The second section discusses elements of a strategy for combatting corruption and beginning to put these reforms into place. The last part suggests some steps that reformers and researchers can take right away to assess key institutional weaknesses and collect information in support of the movement for reform. These sections elaborate on themes present in the case studies and put the lessons from those cases, summarized below, into more immediate operational terms for the reader.

Benin

Problem	<ul style="list-style-type: none">- Generalized bribery & nepotism- Illegal transfer of funds from Public Enterprises- Illegal road payments to police and customs agents- Lack of public confidence in legitimacy of government
Response	<ul style="list-style-type: none">- New Constitution redefines transparency requirements and independence of judiciary- Administrative control commissions- Visible prosecution of advisor to President- Pressures from press and civil society (esp truckers groups)
Outcome	<ul style="list-style-type: none">- Incomplete implementation of official assets transparency requirement- Indictments for corruption lead to light or no sentence- Administrative oversight bodies weak- Safety concerns on roads weaken the case for fewer control posts
Lessons	<ul style="list-style-type: none">- Catalytic role of National Conference- Role of free press in raising visibility of corrupt behavior- "Fry big fish ' weakens immunity for "small fry"- Limited role of legal reform without active enforcement

Niger

Problem	<ul style="list-style-type: none"> - Illegal road payments at checkpoints and customs posts - Total illegal payments estimated at 115 FCFA/km on export routes in 1992 Cost of wasted time and spoilage of perishables add to cash payments
Response	<ul style="list-style-type: none"> Anti-corruption effort by new government Information campaign by radio, political parties student unions - Number of control posts reduced - Reporting of observed illegal payments encouraged - Consultative bodies for police and truckers unions USAID financial and technical assistance
Outcome	<ul style="list-style-type: none"> - Decrease of value of illegal payments in Niger by about 50% between 1992 and 94 - But backsliding signs of new increase of payments to customs agents number of control posts increased after February 1996 coup
Lessons	<ul style="list-style-type: none"> - Reduce number of internal control points and authority of agents - Apply sanctions to most corrupt individuals/units - Formalize payments, collect them officially at one location, use proceeds for security or road improvement - Collect and disseminate information on illegal payments and related regulations - Work with donor agencies to apply pressure for reforms

Uganda

Problem	<ul style="list-style-type: none"> -Bribery, nepotism, extortion, embezzlement -Diversion of government materials for private use -Under or over-invoicing, payments for non-existent goods and services -"Ghost" workers
Response	<ul style="list-style-type: none"> - Anti-corruption drive by new government - Inspector General of Government leads the fight against corruption - Civil Service Reform reduction in size of public sector, management reform to promote accountability, pay scale revision, code of conduct - Public Accounts Committee investigates misuse of public funds - Prosecution and firing of corrupt officials - Media, press, and public awareness campaigns
Outcome	<ul style="list-style-type: none"> - Increased accountability and transparency within public sector - Reduced and fiscally responsible civil service - Many activities and improvements limited to urban areas - Incomplete enforcement of accounting systems
Lessons	<ul style="list-style-type: none"> - Political will and commitment to reform at all levels necessary for success - Public awareness and involvement paramount for success - Legal reforms need to be accompanied by civil service reform that increases accountability and transparency - Strategy to combat corruption must be coherent and coordinate actions of all players - Make corruption a "high risk low profit" undertaking

Bolivia

Problem	<ul style="list-style-type: none"> - Municipal government has become a "sick institution" - Rampant corruption tax evasion, extortion, speed money theft, "ghost employees" - Illicit enrichment by high officials
Response	<ul style="list-style-type: none"> - Comprehensive assessment of public service by new mayor - Limit & simplify public functions licensing, tax, procurement - Central permits registry to limit discretion - Public information campaigns & surveys - Professionalize staff and top up salaries - New auditing mechanisms
Outcome	<ul style="list-style-type: none"> - Corruption broadly reduced - Tax revenue & investment soar - Deregulation has lasting benefits - But backsliding same forms of corruption return in other areas, e.g. procurement, permits - Civil service pay not linked to performance - Registry system breaks down
Lessons	<ul style="list-style-type: none"> - Tax corruption correctable in short term - But reforms can be corrupted & turned into patronage mechanisms - Need sustained attention to information, incentives, checks & balances

United States

Problem	<ul style="list-style-type: none"> - Clandestine activities prohibited by law - Failure to notify Congress or other oversight institutions of secret activities - Illegal sale of US arms to foreign countries - Solicitation of private funds and conversion of public proceeds to private purpose - Committing perjury to congressional investigators
Response	<ul style="list-style-type: none"> - Public exposure of activities by the press & civil society - Public hearings to expose misfeasance and halt secret activity - Require written "Findings" to Congress before any future secret activity - Prosecution of officials who lied to Congress and those who converted public funds for private use
Outcome	<ul style="list-style-type: none"> - Increased congressional monitoring of executive branch activity - Increased public awareness of need to hold government officials accountable - Increased accounting requirements - Loss of political capital by President
Lessons	<ul style="list-style-type: none"> - Need to have interlocking mechanisms of checks and balances to make executive branch officials subject to political and legal accountability - Secrecy in government decision-making reinforces monopoly power which leads to corruption - Free press plays a vital role in supporting government oversight

Discussion of Lessons Learned

These case studies refer to disparate events, in different government institutions, in a variety of political systems, and across dissimilar cultures. They also range from the highest levels of government to the lowest. Nevertheless, there are common threads running through all these case studies. The central lesson is the importance of accountability in governance. The idea that each government official must answer to someone else in order to reduce the opportunities for corruption comes out strongly in several case studies. In the Uganda study, civil servants operated with enormous discretion and enormous temptations for malfeasance. This combination of high payoff and low risk provided an incentive for corrupt behavior. But the introduction of an Inspector General of Government in 1986 made the decisions of executive officials subject to the evaluation of an outside institution that could evaluate whether or not they were performing their duties according to standards. By imposing an external monitoring system, the government provided for mechanisms of accountability, and hence, reduced the incentives for corruption. It also changed the balance of incentives by increasing the pay of civil servants, thereby reducing the need and temptation to collect illegal payments.

The importance of instituting external mechanisms for accountability is also highlighted by the United States case study of the Iran-Contra incident. But this study shows that government mechanisms for oversight are not always sufficient because government officials determined to avoid oversight are sometimes able to do so, at least in the short run. This study also shows that in the long run, strong institutions of civil society are as important as government institutions to ensure government accountability. In the US example, a strong free press and support for an active civil society which questions government decision-making was as responsible as government oversight mechanisms for ensuring that officials abided by the rule of law and were held accountable.

As the examples in Niger and Benin also show, a free press plays an important role in reinforcing the rule of law and the tendency of officials to obey it. In Niger, the press played an important role in communicating the rights of citizens and obligations of public officials. When this information was disseminated by the press and civil society, individuals were armed with information which enabled them to withstand corrupt demands of public officials. Absent this information, they had less basis to judge the appropriate limits of official behavior. This same phenomenon was illustrated in Benin when civic groups and the press put pressure on the government by conveying information to the electorate which gave them the ability to judge their government.

These studies also show, however, that oversight isn't always sufficient. Sometimes a government is so dysfunctional or corrupt that people despair of it ever being reformed. In this case there are no incentives for either public officials or the general public to obey the law because they would be bearing the entire cost of rule obedience. As the Bolivia and Benin case studies illustrate, it is sometimes necessary to take a serious measure which delivers a kind of psychological jolt. This measure needs to send a message that the government recognizes corruption as a serious problem and it is prepared to take serious measures to move away from the status quo. Although it is not a solution on its own, one of the most effective measures in this regard is to "fry some big fish." As the Bolivia and Benin examples show, prosecuting high level officials and putting them in jail sends the message to the public that the status quo is no longer tolerated. This in turn emboldens the public to demand good governance from their officials and to hold those officials accountable for their behavior.

These case studies also illustrate other ways in which governance can be improved. The National Conference in Benin and the public congressional hearings in the United States illustrate the informative and educative role of government institutions. These public events serve several important roles, but most

importantly by disseminating knowledge of government policy and behavior, they enable people to play a role in holding government officials accountable. But these studies also show that sometimes small, or rather, ordinary changes can make a big difference in reducing the incentives for corruption. The cases from Bolivia, Benin, and the United States illustrate that sometimes less regulation or apparently small procedural reforms can have a big impact. As the Bolivia example shows, if it is possible to reduce the activities which are subject to government regulation or reduce the discretion which government officials exercise, then the opportunities for corruption decrease. Something as simple as requiring an official to write a decision down on paper or enter it into a computer record will raise the costs of cheating or illegal behavior.

None of these lessons taken by themselves gives us a magic wand to create accountable government. Nor are all these lessons appropriate for every context. But each of these studies shows one lesson which is applicable everywhere: the key to reducing corruption is to make public officials account for their actions. The mechanisms for achieving accountability are manifold, and indeed, are probably most effective when they reinforce each other within different branches of government and between government and civil society. It is also important to bear in mind that these mechanisms are most likely to succeed where material conditions and incentive structures favor professionalism and quality in the performance of public officials.

The lessons cited here relate back to the themes of chapters one and two. Readers may find it worth reviewing those chapters in light of the case studies. The following sections translate these lessons into more specific suggestions concerning structures, strategies, and methodologies.

4.1 Institutional Reform Targets

How should one apply the lessons we have explored thus far in this volume? This chapter moves from the general to the specific. Corruption, for the practical purposes of this volume, is an institutional failure best addressed through reforms aimed at improving accountability. In order to deal with the problem comprehensively, numerous reforms would be needed. However, they can be summarized or grouped under the headings of political and legal structures of accountability (often referred to as "checks and balances"), limiting the role of government (particularly central government), external oversight by civic groups and the media, and ensuring integrity in the public service through appropriate incentives and controls. These general targets are covered in the present section. The sections that follow provide some strategic and tactical approaches for achieving them.

The Problem

Nations differ dramatically not so much in their inherent tendency toward corruption, but rather in the extent to which public officials are constrained in how they carry out their public function by mechanisms of accountability. In most African countries, the legislature, judiciary, civil service and electoral system remain underdeveloped, and even undeveloped. The legislative and judicial branches of government, in particular, need to be strengthened to ensure independence. Many times these branches of government are associated with the ruling party and, consequently, their trustworthiness and fairness seriously questioned. In Sierra Leone, for example, survey results indicate a complete lack of trust in institutions, especially the judicial system, because senior government officials have violated the law with impunity.¹

¹ Sahr Kpundeh, *Politics and Corruption in Africa: A Case Study of Sierra Leone* (Lanham, MD: University Press of America, 1995).

The results of such institutional weaknesses in African governance are reviewed at length in section 2.3 of this volume, and illustrated in the case studies. It is worth touching on the main points here, before discussing the main institutional reform targets. The conspicuous absence in most African countries of effective structures with the autonomy and strength to check corruption has contributed to the continuous misuse of public funds. In some countries, there is virtually no separation of power between the executive and legislative branches. Presidential cabinet members are seldom, if ever, queried by parliamentarians. In short these two branches of government are so intertwined that its members have colluded to use the political system as an agent to defraud the people. Widespread fiscal mismanagement and scandals increased after the introduction of one-party political systems. The head of state is often in control of everything--the army, all educational institutions, and the civil service. Few questions are entertained and none on any matters that require public scrutiny.² Such a system has no room for accountability since most entities that can effectively audit various government departments are eliminated. However, there are a number of aspects of power sharing that can begin to confine corruption.³

Checks and Balances Mechanisms of Accountability

The inability of many African countries to ensure accountability or promote and protect the rights of the individual makes the development and establishment of critical national institutions the central focus in the fight against corruption. These structures include an independent judiciary, a functioning

² Kpundeh "Challenges to Democratic Transitions in Sierra Leone: The Problem of Corruption," in *The Democratic Challenge in Africa* (Carter Center Working Paper Series, 1994)

³ Some of these suggestions are drawn from Robert Charlick's article "Corruption in Political Transition: A Governance Perspective" *Corruption and Reform*, 1993

parliament free of undue influence and interference from the executive or ruling party, an independent and critical press, and a commitment to good governance. These mechanisms act to expose the activities of public servants to outside scrutiny and to measure them either against contemporary judgments of efficacy (political accountability) or against previously determined rules concerning the obligations of a public servant acting in a certain role (legal accountability).

Political Accountability

Political accountability, one of the most effective forms of oversight, can take numerous forms. The most fundamental form of political accountability is an election. In an electoral democracy, people have a regular, open method for sanctioning or rewarding those who hold positions of public trust.

Indeed, however good the anticorruption technique, it will only be as sustainable as the political accountability mechanism in which it is embedded. However, the need to satisfy an electorate, while perhaps the *sine qua non* of accountability, is too blunt an instrument to be effective on its own. Although incidents of corruption can certainly affect its outcome, an election often cannot provide the specific oversight to prevent the newly elected officials from engaging in the same behavior.

One mechanism to achieve this more specific oversight is to have the two political branches watch over each other. In many countries however, the executive and legislative branches are either undifferentiated or hierarchically related -- i.e. one institution, usually the legislature, is politically subservient to the other, namely the executive. In either case there is no political mechanism for reducing the monopoly of power which Robert Klitgaard has identified as a main ingredient of corruption. The principle behind setting these two branches against each other is that the resulting competition and conflict can keep both on guard against the other's conflicts of interest.

Separating the institution which raises and spends funds from that which actually executes the spending decision helps ensure that the underlying public interest is served. This can be achieved in a variety of ways which make the executive branch report to the legislature how it has spent the money allocated to it. These mechanisms can range from parliamentary question times to compelling civil servants to appear before legislative investigative committees. In either case the executive is aware that it is under daily scrutiny by an institution with the capacity and resources to make specific inquiries rather than the periodic scrutiny of a general electorate which cannot possibly investigate the daily actions of executive officials. It should be noted that this oversight can work both ways. Legislators who sell their votes in conflict with their publicly assigned roles will be aware that they are subject to executive veto or even prosecution for bribery.

But the creation of this institutional conflict, which would put each of the branches under the scrutiny of the other, cannot exist solely by convention. This oversight best takes place in the context of a constitutional framework which provides for the separate institutions of government to serve different roles and exercise different powers. Subjecting public officials to the rule of law gives specific effect to political oversight by empowering institutions to look out for their own interest and ensure that other institutions don't usurp their legally defined authority. This places the political branches directly at odds with each other, and hence, creates impasses when no political resolution is possible. Political oversight also falls short in situations where the standard of judgment for a particular act is not a political one, e.g. whether an act is stupid or immoral, but rather a legal one, that is, whether an act is prohibited by the rules in force.

Legal Accountability

The constitution, which governs the organization of power, authority and individual rights, delineates the legal standing of government institutions and individuals to act in any given way. These standards provide a second basis of oversight beyond political evaluation. Under the rule of law, the powers of government are established and hence delineated by the law. No government official is entitled to act in any manner inconsistent with the powers provided under the constitution or ancillary administrative laws enforcing that fundamental law. This provides a rigorous standard of accountability if it is enforced, although this too depends upon the institutional capacity of the judiciary to ensure that government officials are held accountable. Three factors can impede this oversight capacity, and must be counterbalanced.

First are constraints to the independence of judicial institutions. If this branch of government does not have the legal and institutional capacity to act against the other two branches, and particularly the executive branch, then the ability to ensure legal accountability is undermined. This capacity is sometimes explicitly limited by the subordination of the judiciary to executive control. But many countries, including those of continental Europe, who do not separate the judicial and executive branches nevertheless provide for judicial independence through conventions which ensure that judges may act against the executive without fear of retribution. These conventions do not always exist, however, and oversight is thwarted when the executive can control judicial pay and perquisites or even tenure, should a judge issue an unpalatable decision. Mechanisms such as life tenure and publicly determined salaries which cannot be withdrawn are important ingredients of judicial independence.

This remedy can sometimes create a second impediment to judicial independence, that is, corruption within the judiciary itself. While this is not generally a problem in most countries with independent judiciaries, judicial corruption is, paradoxically, more

problematic in places where judges are not wholly independent of the executive branch. This phenomenon provides an understandable objection to greater judicial independence. Considering the fact that such conflicts of interest occur in a situation of limited political accountability through the executive, so this argument goes, it would be counterproductive to remove that limited accountability and to give these corrupt officials life tenure in the bargain. Nevertheless, a working system of checks and balances assumes the kind of tension that would be undercut if the judiciary were not free from direct political control. This, of course, does not diminish the need for mechanisms of judicial discipline, ideally through shared confirmation and oversight processes.

Finally, even if there is an independent oversight capacity by the judiciary in law it will not be effective in practice unless both political branches, and more importantly, the population at large, maintain a respect for the law which governs them. This respect is an aspect of their identification with the society of which the law is a part and indeed provides a basis for the obligation to obey the law. Respect for and loyalty to a society may express itself in respect for the law of the community.⁴ Without this respect within the government, the judiciary cannot perform its oversight capacity. Lacking any police or military force, the courts cannot compel the political branches to comply with their decisions if those institutions do not already have some prior respect for the role of the courts to adjudicate certain issues even if they disagree with the results.

Limiting and Decentralizing Government

It may seem tautological to insist that state-assisted corruption can be reduced by limiting the state's role in governance,

⁴ Joseph Raz, *The Authority of Law* (Oxford: Clarendon Press, 1979) p. 239.

but this proposition is not trivial. Where the state controls most of the public allocation process, incentives to charge "rents" for public services are high since governance is in short supply. The sphere of potential corruption as we have defined it is limited only by the universe of public functions and public goods. Limiting the role of government in the economy generally, and in particular adopting clear divisions between central and sub-central government powers can help improve governance and restrain opportunism in the bureaucracy.

Local governments that have some real power can serve both to address local interests more fully and exercise a check on the operations of higher levels of authority. However, two key ingredients need to be present for the potential gain to outweigh the costs. First, decentralization must involve real delegation of authority. Local authorities must be able to generate and reserve a portion of their revenues. Second, they, too, must be accountable to both the national level and to local groups. Additionally, abuse of authority and fiscal mismanagement is less likely to occur if the rules which govern local officials are, at least in part, defined by local norms. Thirdly, one could permit non-state actors, such as voluntary cooperatives, business and professional associations, religious societies, etc. to manage resources and set standards for local governors. The increased supply of governance may not only reduce abuse but, when coupled with mechanisms for linking state and non-state actors through the law and electoral power, establish a set of checks or limits. This, of course, is likely to be a controversial proposal, and especially so in most African countries -- but this does not negate its validity.

The point here is not that local government is automatically better than national government. It is, rather, that governance is likely to be enhanced by placing limits on central government, strengthening citizens' incentives to limit corruption in the provision of public goods by devolving government functions to smaller units, and creating a tension between levels of government that enhances accountability. These are ways to inscribe the lessons

embodied in the formula $C = M + D - A$ into the structure of government. This means that the concepts of subsidiarity and decentralization need to be adopted and applied in the relationship between the executive and other formal and informal organizations such as the legislature, the judiciary, state governments in federal systems, trade unions, political parties, universities, the mass media, the private sector, and non-governmental organizations.⁵ Moreover, while increasing the role of local units and organizations not aligned with the executive, efforts should be made to reduce the role of non-democratic forces such as the military by reducing assistance to them and developing new roles and responsibilities for military personnel.

External Oversight Mechanisms

Successful implementation of political and legal accountability will require support and oversight by people outside of government. At the most concrete level, even the most ardent institutional rivalry will not serve to provide sufficient political oversight within any moderately complex government. The only way to ensure that government officials do not act against the interest of their government function is to ensure that those most directly affected by that conflict of interest have the access to information and capacity to speak out about it. If a government official gives a contract to an unqualified company because of kickbacks, competitors are in a good position to complain and ensure accountability if they have access to information and the right to speak out about it.

Civil Society

Governance mechanisms of political and legal accountability thus require an active civil society of individuals, trade associations, and other groups committed to common causes.

⁵ Dele Olowu, 'Governmental corruption and Africa's democratization efforts' *Journal of Corruption and Reform* 7 (3) (1993), pp 227-236

who can help ensure that different branches of government perform their assigned tasks. In order to achieve this participation, the state must provide for individual freedom of association, speech, a free press, due process and a host of other individual rights which permit individuals to play a parallel oversight role with the political and legal branches of government. These rights not only encourage active political oversight, but also nurture respect for law, which obviates the view of the state as a predatory body which any rational person would thwart or betray. Governmental corruption reinforces this predatory view because it is an instance of government officials pursuing their own interest rather than the public's.

As more actors are permitted to develop a voice in policy, some may, by the unique character of their definition of self-interest, be "public minded." They may have a professional interest in condemning or limiting corruption. Such groups (human rights, non-governmental organizations, etc.) are emerging at a rapid pace throughout Africa, and may become useful allies of anticorruption policies as "watch dogs" not only for abuses of integrity of life, but for official corruption. Local chapters of Transparency International have been established in a few African countries. Furthermore, relying on national and even regional professional associations, such as accountants and inspectors-general, has played a major role in anticorruption accountability especially in Latin America.⁶

Achieving good governance depends upon the public's ability to be vigilant. Hence, socialization measures such as public announcements explaining the procedures and the criteria for granting permits, licenses, bank loans, and building plots, and for assessing taxes, for example, can play an important role. They help strengthen awareness of governance standards, enhance citizen

⁶ R. Charlick "Corruption and Political Transition: A Governance Perspective," *Corruption and Reform* 7, 3 (1993) pp. 177-188

participation in policing the bureaucracy, and hence reduce corruption. The veil of secrecy that surrounds these matters often forces applicants to resort to pay offs in order to maximize their chances of success and protect the guilty civil servant. Thus publicity campaigns, particularly in areas with poor communication and high illiteracy, will produce positive long-term results.⁷

Independent Media

Access to information about the performance of those in authority is a critical factor in an accountability system and particularly in making political choice meaningful. As pluralism and inclusiveness grow, the only way information about inappropriate practices is likely to surface and reach the public is through the media. But it must have the authority and the freedom from incrimination to report the news. Initially, some of this information may be inaccurate or politically motivated, but fear of exposure tends to keep politicians and civil servants honest. Thus, a free and competitive media, even at its worst, is infinitely superior to one that is muzzled and limited in its ability to expose corruption and serve as a catalyst for its demise. The following measures help guarantee a free press:

- 1 Freedom of information laws. They give journalists, as well as private citizens, access to government information.
- 2 Adjustment of antidefamation and "insult" laws to protect the press and the public.
- 3 Ending political censorship.
- 4 Higher professional standards for journalists.
- 5 Ending discrimination (such as government controlled access to newsprint,

⁷ Sahr Kpundeh, "Kleptocracy and the Culture of Corruption: The Political Economy of Mismanagement in Sierra Leone," paper presented at the Canadian Association of African Studies, Montreal, May 2-5, 1996.

- advertising) against organizations critical of the government or ruling party
- 6 Ensuring that state-owned media employees maintain professional standards of independence and responsibility⁸

Corruption is a sensitive subject and by its nature hard to observe. In addition to adopting facilitative laws, African governments should encourage researchers to publish their findings, and the media to report misconduct. It benefits everyone if the corruption taboo is removed, opening the way for more reliable and credible information and eliminating the too often relied upon second-hand sources, hearsay and unsubstantiated charges. As long as its existence is denied, it cannot be tackled. Reassurances and denials only confirm popular assumptions about official hypocrisy and untrustworthiness, and prompt the belief that the situation must be worse than commonly supposed.⁹ Once people feel freer to acknowledge publicly that their neighbors, their institutions, and their government are involved in bribery and malfeasance, it becomes possible to discuss solutions.

In countries where the press operates freely, corrupt activities have been minimized because public officials are watched closely. For example, government policies in Tanzania were changed to ensure a free press. More scandals were uncovered following the enactment of new policies than previously reported during the entire existence of the government-dominated press.¹⁰ This, of course, does not indicate a higher level of corruption, but rather that the press is now permitted to perform its informational

⁸ Transparency International Sourcebook February 1996

⁹ Gerald Caiden "Dealing with Administrative Corruption," (Unpublished manuscript, 1992)

¹⁰ Tanzania Chamber of Commerce, *Corruption and Drug Trafficking in Tanzania* (Dar es Salaam, 1995), p 98

and educative functions. Similarly in Uganda, some argue that the publicity which the Inspector General of Government and the Auditor General have given to corruption has acted as a deterrent ¹¹

Ensuring Integrity in the Public Sector

In addition to the checks and balances supplied by constitutional government and an engaged citizenry, systems of control internal to the government are critical. These include civil service standards and incentives, ethics codes, criminal penalties, administrative review, and the like. These are briefly touched on below ¹²

Transparency and Positive Incentives

Public sector transparency begins with the application of clear standards. It is important to create effective accounting systems, such as an independent accountant-general system and to require regular (yearly) reports to a committee in Parliament. Creating an open, genuinely competitive and transparent system of public procurement helps to build confidence in the system. To reinforce anticorruption efforts, professional groups (associations of accountants, auditors, lawyers, etc.) should declare participation in corrupt activities including money-laundering unprofessional along with the threat of professional censure. Gifts and political donations received by government officials should be reported and recorded.

Performance standards, incentives, and integrity codes are also important within the civil service. Areas of discretion should

¹¹ *Investigative Journalism in Uganda I*, Final Workshop Proceedings (Mukono, Uganda, 14-19 August 1995)

¹² Publications by Transparency International and the World Bank Economic Development Institute analyze these "integrity systems" in more detail.

be minimized and, where possible, eliminated. If such areas are retained, officials should be given clear guidelines, in writing, as to how they are to be exercised. Salaries and incentives in the public sector need to be periodically reviewed. Public officials should be awarded for achievements including good behavior--it produces role models. The public sector should be reformed with the aim of providing high morals and efficiency.

An exception among African countries, Uganda has taken decisive steps to restructure the public sector within the framework of a comprehensive Public Sector Review Commission¹³. With considerable donor support, it has yielded a dramatic reduction in the public service work force, down from 320,000 to about 156,000¹⁴. The Commission also plans to introduce better remuneration, including the concept of a minimum living wage, and a coherent strategy to combat corruption under the leadership of a committee, possibly, chaired by the Inspector General of Government¹⁵.

An important step is a code of ethics for civil servants -- as well as elected officials -- prohibiting their involvement in business ventures that present potential conflicts of interest. Government officials must indicate whether they are related to any individual that owns or manages a private concern. Private interests must be walled off from public policy as strictly as is feasible. Laws could be enacted to require that all mid-level and senior government workers complete a declaration of assets form which is updated annually. These forms should be filed with an independent

¹³ See the Uganda case study in section 3.3 above. Another example is provided by the application of performance incentives in the municipality of La Paz described in the Bolivia case study in section 3.4 above.

¹⁴ Petter Langseth et al (eds) *Uganda Landmarks in Rebuilding a Nation* Kampala Uganda Fountain Publishers, 1995

¹⁵ *Integrity Workshop in Uganda*, Final Workshop Proceedings, 1995, p 26

commission and reviewed periodically to determine if new assets are commensurate with income. This inspires confidence in public officials and seals the social contract--the people are ruled by a government committed to the principle of democracy, in return for loyalty to the government.

Some reforms have been instituted in a few African countries with relative success. For example, in Tanzania, the Leadership Code of Ethics Act No. 13 of 1995 is currently being enforced by the President as a method of ensuring that present and future ministers are held to the highest standards of conduct. Similarly, in Uganda, the Inspectorate of Government now reports to Parliament rather than the President. This change insulates the Inspector from manipulation by other branches of government and establishes his independence.¹⁶

Law Enforcement

The deterrent force of criminal penalties is critical to increasing the risks of corrupt activity. "Get tough on criminals" is a popular cliché, but many laws already exist in much of Africa to severely punish those engaging in corruption. Legal procedures and remedies provide effective deterrence, if enforced. These laws should also apply equally to foreign culprits, individuals and businesses. Klitgaard suggests the criteria for choosing penalties (and those to be penalized) should aim to smash the "culture of corruption."¹⁷ Updating penalties and beefing up criminal enforcement machinery will likely have a greater impact in most cases than enacting new criminal statutes. The criminal law system cannot carry the whole burden, however. Application of administrative law standards by the judiciary or administrative

¹⁶ Sahr Kpundeh and Bruce Heilman, 'Rushwa: An Examination of Corruption in Tanzania.' Submitted for publication to *Review of African Political Economy*, 1996.

¹⁷ Robert Klitgaard, "Strategies for Reform." *Journal of Democracy*, 2, 4 (1991), pp. 86-100.

tribunals is a necessary adjunct to criminal law in restraining official discretion

Strengthening institutions mandated to investigate and fight corruption can be critical to success. Malfeasance is pervasive in many African countries, dictating the need for a competent, independent and powerful agency to address entrenched and institutionalized corruption in the public and private sectors. The effectiveness and success of such an institution has a lot to do with its degree of autonomy. As in Uganda, the best way to make such a body free from all extraneous and political pressures is to make it answerable to Parliament rather than the Head of State. It should have a preventive/educational component, as well as the ability to gather intelligence, process complaints and advise reformers. It must work hard to establish public confidence. Regular press conferences in English and local languages should report progress the government is making toward greater accountability and transparency. These disclosures contribute to the public's willingness to cooperate and participate in anticorruption campaigns. Such an organization has achieved relative success in several countries, most notably Hong Kong.¹⁸

* * *

To conclude, the struggle against corruption must occur on many fronts.¹⁹ Lest this volume appear merely to advocate for multiple restraints on the power of African governments, the advantages of appropriately limited government *to those in office* should be borne in mind. Previous chapters have alluded to gains in economic performance, revenue collection, and public sector efficiency obtainable through governance reform. The importance

¹⁸ Approaches to the establishment of anti-corruption bodies are examined further in the next section.

¹⁹ For a more comprehensive list of reforms, see Transparency International's *National Integrity Sourcebook*.

of good governance for political legitimacy has been mentioned as well. In light of this, it is fair to say that the power and effectiveness of government can in effect increase by means of accountable governance. Recent studies have linked the quality of government performance -- in economic and political terms -- to the level of trust and engagement by the public²⁰. The next two sections of this chapter suggest some strategies and tactics for achieving these institutional goals.

4.2 Political-Level Decisions in a Strategy Against Corruption²¹

What strategic decisions does a government have to take when it wishes to launch a campaign against corruption? This section describes four

1. What type of structure is needed to spearhead the campaign?
2. What scope should the campaign have?
3. What approach should be taken to strengthening the capacity of the many government agencies that need to function well in a campaign against corruption?
4. What should be done to overcome the sense of impunity?

A summary of recommendations appears at the end of the section.

What is a *strategy* against corruption? A short answer is that a strategy focuses on corrupt systems, not (just) corrupt individuals. This can be expressed in the formula, repeated throughout this volume, of $C = M + D - A$ (*corruption equals*

²⁰ See, e.g. Robert Putnam, *Making Democracy Work* (1993) and Francis Fukuyama, *Trust* (1995).

²¹ Robert Klitgaard, edited paper. Dakar workshop.

monopoly plus discretion minus accountability) A strategy against corruption, therefore, should not begin or end with fulminations about ethics or the need for a new set of attitudes. Instead, it should cold-bloodedly look for ways to reduce monopoly power, limit and clarify discretion, and increase transparency, all the while taking account of the costs, both direct and indirect, of these ways.

Let us now descend from these preliminaries to a more practical, and more debatable, vision of four strategic issues that require what might be called a political-level decision.

Decision 1 How to Organize the Fight against Corruption?

For good and bad reasons, issues of who's in charge loom large in government. Preventing corruption and deterring it require the combined excellence of many government agencies. Of course every agency has its own, so to speak, internal responsibilities of management, incentives, and control. But several agencies have anti-corruption functions that cut across the others. Consider the government accounting function or Auditor General. Add police, prosecutors, justice (courts), and the government ministry in charge of administration. Perhaps also the legislature. Perhaps the finance ministry. The lines are not clear cut, but what is evident is that the investigation, prosecution, and conviction of cases of corruption will not succeed unless a number of government agencies work together. Let us call this the problem of coordination.

Experience suggests that there is a second need in campaigns against corruption: a focal point. Someone, some body, has to be in charge of a campaign against corruption--has to have the political authority, the public eye, and the personal accountability. But at the same time, since no single agency can do everything in the fight against corruption and therefore a coordinated effort is required, the "some body" has to be above all a facilitator of joint action, a mobilizer of the resources of many agencies of government. Not a boss, in other words.

The first question facing the political level of a government wishing to fight corruption is how to organize itself to do so.

Several answers are possible, and there is no one right answer for all settings. Hong Kong's Independent Commission against Corruption is one prototype. It is a kind of *super-agency* against corruption. It combines investigation (like a police force), prevention (like a management consulting agency), and popular participation (like a community relations office). Its powers are huge. So is its budget and ability to hire excellent staff--not only enforcement types but also accountants, economists, management experts, systems analysts, lawyers, and others. A former director of the ICAC was asked under what conditions such an organization would be a recommended option. When corruption has become systemic, he said. In other words, don't take this radical step unless your situation is desperate. And, he added, when the government is willing and able to commit remarkable amounts of resources to the effort--he called it a "Rolls Royce" institution.

An important feature of the ICAC is its involvement of citizens in what might be called "oversight boards." It was appreciated from the outset that an organization with mighty anti-corruption powers might itself become politicized or even corrupt. To safeguard against these possibilities, from the outset six different citizens' advisory boards were constituted for the ICAC. One reviews the ICAC's general strategy, and this board includes luminaries of unimpeachable reputation. Three others oversee the major functional areas of investigation, prevention, and community relations. The boards help the ICAC with their knowledge and information. They also provide transparency and credibility.

A second answer to "what kind of structure?" is a *coordinating body*. Venezuela is a good example. In 1992, a series of workshops were held in Venezuela, involving the many agencies involved in the fight against corruption: the police, the Auditor General, the prosecutors, the Supreme Court (which administers all the courts), and finally the cabinet. The various agencies guarded their autonomy and did not want to meet in joint workshops--each wanted its own. Each agency's staff told in those workshops the most extraordinary stories about how their own good efforts had been thwarted by the incompetence and, yes, the corruption of the

others. Cases would disappear in the cracks in their theoretical path from information to investigation to prosecution to judicial decision. The result was agreed by all: widespread corruption and terrific demoralization within each agency.

Before and after the workshops, the invited experts met with the heads of these agencies--the ministers and chief justice and *Contralor General*--and also with the cabinet. They agreed with the diagnosis of their senior civil servants. They also agreed to set up two inter-agency coordinating bodies. One was at the ministerial level, another was at the director general or top civil servant level. Among the missions of the latter was to follow important cases through the system. Both committees also worked on bigger game: the devising of preventive measures, for example, and the closer coordination of their anti-corruption efforts. (In 1995 Venezuela set up a special anti-corruption office, independent of the coordinating committee, whose apparent function is educational.)

Within a year, these coordinating bodies logged dramatic successes. Individual agencies learned through their cooperation how to improve not only coordination but their individual operations (seeing ourselves through others' eyes can be a shock, but it can also be what finally motivates us to do more exercise). Many more anti-corruption cases were moving through the system. One of them was a very big fish indeed: President Carlos Andres Perez, who was impeached.

In 1995 Colombia introduced a version of a coordination model, which has some distinctive features. There is one coordinating body in government and a second that involves something like the Hong Kong idea of an oversight board. In the latter, seven citizens of distinction serve as a kind of interlocutor between the public and the governmental coordinating body. They relay complaints and diagnostic studies from the private sector and civil society to the governmental coordinating body, and they follow up to see what happens to those complaints. They also oversee the government's anti-corruption activities from the level of high strategy to that of particular actions. It is hoped that the result will be much greater efficiency, transparency, and credibility.

in the fight against corruption (As of this writing, President Ernesto Samper of Colombia is threatened with impeachment for what are now admitted as illegal campaign contributions from drug moguls. It is unclear what roles the new anti-corruption bodies may have played in this episode.)

There are other possible answers to the first question. It is worth mentioning here an idea that is probably not promising in most circumstances: the idea that the leading edge of the anti-corruption effort might be some sort of citizens' group with strong, legal powers of independent investigation. This idea has been mentioned in Mozambique, and its motivation is laudable. The thought is to have a group of high integrity that can independently get to the bottom of controversial cases. But it is not clear how the group would undertake the investigation, what status its work would have, nor how such powers would affect, and perhaps undercut, those of mainline government agencies such as the procuracy.

An attractive variant of the idea might be to have this group function (as it did in Colombia) as an interlocutor between the public and the government with regard to corruption. It could, for example, receive the investigations and diagnostic studies of particular citizens, business organizations, non-governmental organizations, and donors of foreign aid. Then it could insist upon a response by government. Its formal powers might be limited but its ability to pressure and publicize could be significant.

Decision 2 What Scope for the Anti-Corruption Effort?

Should the anti-corruption effort embrace the entire civil service and all levels of government? Or should its focus be narrow, perhaps selecting one or two agencies, one or two functions, one or two cities as demonstration efforts?

Those familiar with top-level political decisions will recognize this question as generic. In economic reform, for example, there are the contrasting cases of Poland (broad reforms) and China (begin with agriculture and make that work, then proceed step-by-step).

Many efforts at civil service reform have tried to take on the entire civil service, and most such broad approaches have not fulfilled expectations. Big reforms of the bureaucracy, as Harold Seidman showed in the case of the United States, often lead to boxes moved around but efficiency remaining the same. Massive reforms take time and resources. They often involve huge studies, which in most developing countries involve expensive foreign technical assistants. In The Gambia, for example, a foreign aid project had in mind a complete study of all government offices and functions, with the hope of scientifically identifying where efficiency gains (and personnel cuts) might be made. Estimated time to complete the study: seven years.

Big reforms tend to be constrained by horizontal equity and blueprint thinking--both of which cut against the varied incentives and learning-by-doing that administrative reform requires. Table A below contrasts a prevalent approach to civil service reform with a newer one that seems more promising.

Among the keys to improving government are *information* about performance and *incentives* linked to that performance. Competition and responsiveness to clients fit under those broad rubrics, but if one likes they can be added to the list. If these could be reformed across a whole government, at all levels, at once, all the better. But in most countries, especially impoverished ones, this is unlikely. It would be too expensive even to try, would take too long even if it could be afforded, and would probably be blocked by civil service unions even if it survived the tests of money and time.

Political-level decisions must be taken on the scope of the reform, and the reflex is the first alternative described in Table A: "Let's do a study, let's reform the entire civil service, let's write new laws concerning decentralization, public careers, and so on. Let's cut the civil service back, then raise pay for those that remain (but those promised pay increases prove scant, because not that many civil servants get fired and they receive severance packages)."

The recommended approach is the second alternative of Table A. The scope is narrower and the strategy begins with

experiments with a few sectors, functions, and cities One or two sectors, functions, and cities are selected according to criteria such as

- importance to the public
- probable success in the near term
- sympathetic and able local leadership (minister, director, mayor, etc)
- ability to involve public functionaries in diagnosing the problems and designing incentive experiments
- ability to involve clients and citizens also in diagnosis and designing experiments

Table A
Two Approaches to Civil Service Reform

	<i>Prevalent Approach</i>	<i>Proposed Approach</i>
Ends of reform	Rationalize the civil service, cut the size of the civil service and make across-the-board pay increases, horizontal equity in pay across jobs	Create a more responsive, less corrupt civil service, develop a performance orientation with pay linked to achievement
Means	Learning by planning Long term studies leading to system-wide reform, foreign TA do the studies	Learning by doing Experiments with a few key elements of the civil service, which then spread, public officials and citizens help define measures of success
Constraints	Budgetary austerity, donor pressure to reduce wage bill, takes a very long time	Begin with revenue-raising and cost-saving experiments that can pay for themselves, use aid to fund experiments
Facilitating conditions	Studies, technical assistance, political will to reduce the size of the public service	Involve public servants in the design and review of experiments better information, more client participation, competition

Applying these criteria requires technical judgments but also political ones. These questions should be addressed: Where is it most promising to begin the campaign against corruption? Should we pick hospitals and the customs bureau, and perhaps one city, a provincial capital? Then several steps are worth considering

For the selected demonstration projects, one should run workshops for leaders and senior staff, to introduce the idea of a strategy against corruption. One also encourages these same leaders and senior officials to diagnose their organizations' existing *systematic* problems that lead to corruption and inefficiency (which does not mean identifying particular *individuals* who transgress). One also invites clients and citizens to diagnose corrupt and inefficient systems. The techniques here range from surveys to confidential interviews of a small number (say 30) of private sector people with detailed knowledge of the agency or function or city government. One involves public sector officials in the design of incentive experiments, which will be outlined in more detail below. Clients and citizens are an invaluable barometer of performance.

Emphasizing narrowly focused experiments instead of huge, government-wide reforms has several advantages. It is less expensive and more timely. By focusing reform efforts, we may learn lessons and also garner some successes. And both the lessons and the successes may be infectious. The impetus for broad reform may require narrower successes to start.

Decision 3 How to Strengthen Individual Agencies

Every agency has to battle corruption internally, but government-wide, a number of functions are crucial to a campaign against corruption. They include accounting and auditing, investigation (police and Interior Ministry), prosecutors, courts, and the government ministry in charge of administration. Legislative oversight is also important, and so are the various functions under the Ministry of Finance. In many countries where corruption is a problem, these ministries and agencies lack capacity. Their staff is underpaid and lack basic resources. They are not trained in investigating and prosecuting fraud, bribery, white collar crime, embezzlement, and the like.

These agencies must be strengthened. The political-level strategic decision is how to build their capacity. What one might call the standard option is "more of the same" or a supply-side

strategy There is a call for more training, technical assistance, four-wheel drive vehicles, computers, and staff

There is also a call for new laws The legal framework may be lacking in several ways For example, corruption may be seen simply only as a criminal offense, which makes it difficult to investigate and prove Allowing sanctions by administrative authorities may not merely reinforce the threat of criminal prosecution but may constitute an even more credible threat If bribery reporting is made mandatory to regulatory and tax authorities, the prospects for deterring bribery improve Compared with police, the regulatory and tax authorities usually have access to better information and have more expertise It is relatively easier for them to impose sanctions Such agencies may also play on a divergence of interests within corporate structures (auditors and board members who may be reform-minded or merely self-protective)

Another example concerns the illicit enrichment of public officials Corrupt activities can be tracked in several ways the actual transaction, the change in policies or practices that the corrupt activity entails and large increases in the wealth of public officials In some countries government officials can be prosecuted not only for direct evidence of having received a bribe—evidence which is always difficult to obtain—but also for possessing wealth beyond what can be explained as the result of lawful activities Some countries have even reversed the burden of proof a government official may be required to demonstrate that his wealth, and perhaps that of his immediate family, was acquired legally In some countries there is no need to prove the individual is guilty of a crime

Obviously, illicit enrichment laws carry risks The power to demand proof can be misused Excellent potential candidates for public office may be deterred by the possibility of having to open up their finances and the finances of their families to public scrutiny And it may not be too cynical to note that in very corrupt situations such a law will drive corrupt officials to hide their wealth in secure places beyond the country's borders, which in the limiting

case could leave corruption unaffected but reduce domestic investment and consumption

Nonetheless, in Hong Kong the leverage obtained by a change in the law concerning illicit enrichment helped turn around the battle against corruption, as part of a wider-ranging package that included preventive measures, better enforcement and public education and participation. A useful precedent internationally is the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (E/CONF 82/15 and Corr 1 and 2). The principle of forfeiture of assets applies, with the onus of proof on the accused. Because of possible abuses with regard to accusations of corruption, this reversal of the onus of proof probably should be restricted to the evidence and be made rebuttable.

The standard answer has its truths. These agencies do often need "more of the same." Training and resources are often essential for basic tasks to be completed. And new laws can be crucial in a campaign against corruption.

But the standard answer tends to leave out issues of incentives and information. A key dimension of the problem of capacity is that pay scales in many countries have declined in real terms to the point where it is impossible to attract and retain the needed talent. Of 150 auditors and accountants in the Gambian government, only two have professional qualifications. The abiding reason is that in the private sector the salary and benefits package is at least three times larger. In Mozambique foreign aid donors have been hiring senior civil servants to work on their projects at salaries eight times that of the civil service. This shows, at least, that these civil servants are worth far more than their current salaries.

But of course not every government official can receive a three-fold or an eight-fold increase in pay. The dilemma is this. If pay scales remain as they are, the system continues to unravel. But budgetary stringency and pressures from the IMF mean that "la masse salariale" must be cut. True, the size of the civil service can

be reduced somewhat, but experience shows that this does not in practice translate into important increases in real pay of those who remain

What to do to face the incentives crisis? Experiment Pick out a few areas, especially in revenue raising and cost control where the benefits from better performance will be obvious Involve both the civil servants and their clients in the design of an incentive experiment Certain quantitative goals are posited by the civil servants and agreed to by the government (and perhaps monitored and partly paid for in the case of social services by the citizens) If performance rises by so much in, say, 12 months, then the civil servants receive a share of the additional revenues raised or the costs saved

Table B shows the outline for what might be called a model memorandum by civil servants in the design of such an experiment Working with, say, the top 25 officials of a ministry or agency for two hours a day for one week, a draft experiment can be created

Success stories show that this approach is feasible, but it cannot be done in all parts of the government at once Again, it requires a focused effort which, once successful, may spread to other parts of the government

Capacity building in the traditional sense may be a necessary condition for improved efficiency But it is often not a sufficient one in developing countries where incentives have collapsed and information about performance is lacking An important decision at the political level is therefore to experiment with better information and incentives at the same time as more training and resources are added to the key agencies in the fight against corruption

Table B
An Experiment Linking Part of Pay to Performance
Outline of a Model Memorandum by Civil Servants

1 Quantitative summary of the current unsatisfactory situation

Because of X, Y, Z shortcomings (resources, incentives capabilities), we are currently able to process only A% of the cases we should, and of those, only B% are processed adequately. As a result the government and citizens forgo α , β , γ benefits and incur λ , ϕ , θ costs.

2 Examples Here are three recent examples of things we were unable to do that clearly led to foregone benefits or additional social costs.

3 Measures of success After considering our objectives and our organization's key tasks, here are the measures of performance along which we believe it is fair that we be assessed. Some are quantitative indicators of the tasks we perform and the results we obtain. Others are qualitative ratings constrained by a curve so that not everyone can be rated 'top one-third'. Still others may be based on the detailed evaluation of a sample of particular cases.

4 Proposition If we have x y z (additional resources incentives, capabilities), we will with K time period be able to achieve the following measurable (even if qualitatively) benefits and reductions in costs 1, 2, 3 4, etc. We are willing to make such-and-such of the incentives conditional on the attainment of so-and-so performance targets, which will be monitored in the following transparent ways 1, II, III, IV, etc.

Decision 4 How to Overcome the Sense of Impunity

The fourth key decision concerns how to break the culture of cynicism and defeatism regarding corruption. In many countries, people are convinced that high-level corruption is widespread and that the “big fish” enjoy impunity. They are even convinced of this in countries where it is not true. A paradox of liberalization of politics and the economy is that people are freer to criticize than in the past, that transgressions that before were hidden are now more visible, that opposition parties have more of an incentive to rake mud. Consequently, it is likely in some countries that complaints and perceptions about corruption have grown worse even as the problem of corruption has actually been reduced.

But political leaders know that perceptions have their own reality. It is essential to combat the cynical culture of corruption and eliminate the sense of impunity. Several alternatives again suggest themselves, and they are not mutually exclusive. The reflexive action of many politicians is to exhort. Thus leaders will give speeches decrying corruption, pledging their undying efforts to eradicate it, calling for a moral renovation or a return to the country’s traditional values. Citizens are often unimpressed with such speeches. They have heard the words before. Now they need tangible evidence that things are changing.

Experience from many countries suggests that the best way to garner credibility is to fry big fish. Some big drug smugglers, tax evaders, corrupt judges, political graft-takers, and bribe-receiving police must be apprehended and prosecuted. Even if the legal process takes years to complete, the fact that those thought to enjoy impunity are being prosecuted sends a strong signal to the public. In cases ranging from Hong Kong to Mexico, Singapore to Panama, this sort of signal has been crucial in making a campaign against corruption meaningful. On the contrary, in countries such as Kenya, Tanzania, and Nicaragua, great speeches and moralization efforts that were unaccompanied by “frying big fish” have not been effective. (Only recently in Kenya the head of the Mombasa port was jailed, and a new cleaner-than-clean figure put in his place. It remains to be seen whether the frying of this big fish will be a

credible signal and will be accompanied by a strategy against corruption)

Summary

A strategy against corruption recognizes that corruption is a problem of sick systems even more than it is one of immoral individuals. Changing sick systems means revamping their incentives, information about performance, competition, and involvement of clients and citizens. It means reducing monopoly powers, clarifying discretion, and enhancing transparency. This is true for the private sector as much as it is for government.

If a government wishes to launch a renewed effort against corruption, it must go beyond moralizing and legalisms. It must also do more than ask citizens and officials to obey the law, to live up to their obligations. There are four key decisions at the outset, accompanied here with recommendations.

First, some mechanism is needed to coordinate the many agencies of government that must all be involved in the fight against corruption. This body or focal point should enjoy political salience. It is responsible for devising and following up a national strategy against corruption. For most countries, it is recommended that this body be an intergovernmental coordinating body. This body should have one component at the ministerial level (with monthly meetings) and another at the technical level, which meets more often. This government structure may be accompanied, as in Hong Kong and Colombia, by citizens' oversight boards. These serve as an interlocutor with the people, as well as a watchdog to see that the government follows both the grand strategy it promises and the individual reforms and investigations it undertakes.

Second, the government must decide on the scope of the anti-corruption effort. Of course no one is going to say that corruption will be allowed anywhere. The words and the rules must apply to all parts of government. But in taking remedial action, it is good to focus attention on certain key areas and get some early successes. Nothing bolsters an effort against corruption than a few

success stories. Nothing defeats it more thoroughly than a grand campaign that after a year shows no signs of real effects.

Thus, the recommendation for most governments is that the political leaders choose a couple of key government functions (perhaps an economic one such as procurement for public works and one social such as public health services) and one mid-sized city as the location for demonstration efforts. With these agencies, strategies would be devised. Citizens would be involved in diagnostic studies and in following progress. Public officials in these agencies, although perhaps involved in corruption themselves, should be involved in diagnosing the problems and devising incentive experiments. In many countries even supposedly corrupt officials are very willing and able to make systematic improvements as long as they are not asked to point to particular corrupt individuals.

Third, a political level decision needs to be made about the strategy for increasing government capacity in key areas such as accounting, police, prosecution, courts, financial management, and legislative oversight. It is likely that traditional capacity-building efforts will be necessary, such as training, computers, staff, and so forth. It is strongly recommended that such "supply-side" efforts be supplemented with experiments linking incentives with performance. Without taking on the incentives problem, capacity building efforts will fail. This recommendation dovetails with the previous one. If a couple of functions and one city are identified as focal points for the first year of an anti-corruption effort, then precisely there should one locate experiments with performance-based pay.

Fourth, political leaders must face the unpleasant fact that, justly or not, they are believed by many citizens to enjoy impunity. Any effort against corruption should begin with the highly publicized prosecution of a few "big fish"--including people from the private sector (both nationals and foreign firms), the legislature, the judicial branch, the executive bureaucracy, and the political class. To avoid suspicion that a campaign against corruption

becomes a campaign against the opposition, it is good that some of the big fish be members of the party in power

Thus, a campaign against corruption might supplement the usual capacity building and new laws with

- the formation of a national-level coordinating body that is responsible for devising and following up a strategy against corruption, along with a citizens' oversight board
- the identification of a few key agencies or areas where the anti-corruption effort might focus its efforts in the first year, with the hopes of achieving some momentum-building successes
- a capacity building strategy within key ministries that takes the problems of incentives and information seriously, including experiments with performance-based pay
- the identification of a few big fish whose cases will be prosecuted

For maximum impact, these steps should be carefully prepared before being announced, and their announcement should be simultaneous

4 3 Next Steps: Information and Collective Action

Having examined questions of institutional reform and strategy that enable societies to control corruption, we now turn to issues of methodology--i.e., what are the immediate next steps one can take and how to undertake them? An ever-present theme of this volume is the central importance of information in maintaining accountability and limiting corruption. The remainder of this section therefore examines ways to increase the useful supply of information relating to corruption. Systems of internal control and external checks only function to the extent that multiple information sources enable them effectively to police the applicable standards. Furthermore, these systems of control work best when public pressure can be brought to bear on responsible officials --

such as auditors and Inspectors General -- to carry out their oversight functions properly. Apart from flows of information that are a regular part of administrative control and outside oversight, there is a need for dissemination of information on wrongdoing and the response to it, as well as incentives and protections for those on the inside with information to report on corrupt activities.

Preventing corruption entails educating the public. Socialization measures such as public announcements that explain procedures and criteria for granting permits, licenses, bank loans, and building plots, and for assessing taxes are likely to result in a reduction in bribery. The reporting of scandals, both domestic and international, also plays an important role in public education about governance. Scandals are the public acknowledgment that politicians, institutions, associations and political parties sometimes violate norms which they claim to protect.

Any successful attempt to fight abuses in the public administration must involve incentives for those who report these abuses -- "whistleblowers." Workers can be invaluable sources of information about where corruption and inefficiency occur. Employees are in a position to report isolated cases as well as chronic problems. They know where government is working and where it is not. However, it is extremely important to protect and even reward whistleblowers. For example, in France the individual who blew the whistle on the Marseille bribery scandal was given the 1995 FIFA Fair Play Award. His allegation that he had been offered a bribe set off a far-reaching investigation that subsequently led to a jail term for then Marseille professional soccer club president Bernard Tapie.²²

In addition to increasing information available about the performance of public service, there is a need to inform the public servants themselves. Are they aware of the ethical guidelines, civil service rules, and the administrative and criminal laws that relate to the performance of their duties? A review of training needs could

²² Transparency International Newsletter March 1996

usefully be conducted, with emphasis on in-service training for civil servants at all levels along with the formulation and dissemination of clearly defined ethical guidelines and rules of conduct. There is an anticorruption course in the United Kingdom operated by the British Crown Agents. This training is for civil servants from developing countries and attempts to provide training in the fight against abuses in public office.

Following is a discussion of some more specific approaches and methods for creating the necessary information base for the implementation of reform strategies.

Diagnostics

Diagnostics entail the identification of vulnerable areas and signs of high-level corruption. Participatory diagnosis--working with officials from corrupt institutions in the analysis of abuse--has proven quite valuable. It is surprising how much information one can obtain from officials inside an allegedly corrupt organization. They are able and willing to identify places susceptible to malfeasance and to design workable changes.²³ Therefore, it is useful to consider developing twin networks of nongovernmental agencies (NGOs) and experts as sources of information, interlocutors with officials, and facilitators in diagnostic and reform methods. Clearly, reform is ineffective without an understanding of local conditions. Many of the more broadly descriptive strategies offered by scholars and policy makers need considerable tailoring to fit specific political, economic and cultural circumstances -- and participatory diagnosis is one of the most obvious ways to develop the information base for such tailored reforms.

²³ Robert Klitgaard, *Adjusting To Reality* p 132

Vulnerability Assessments

What are the areas within the public administration that are most susceptible to corruption? Every informed observer will have his or her answer to this question. Previously, in Chapter Two, we mentioned the following areas as being especially vulnerable

- * Public procurement
- * Management of public companies
- * Urban planning and land zoning
- * Government appointments
- * Fiscal administration
- * Customs
- * Justice

These would be ideal areas to begin assessing the quality of governance and the existence and extent of significant corruption. Diagnosing "corruption" or "governance" or the health of an institution is a big task. The case studies in chapter 3 provide some hints about this, based largely on examples from developing countries. The solutions adopted in those cases also show the imagination and persistence of reformists in very difficult situations. Most of the cases concerned responses to particular situations or scandals. Inevitably, given the sheer scope of corruption in many countries, this selective or *ad hoc* approach will have to be used.

On the other hand, if no such emergency presents itself and corruption is more generalized, there are diagnostic methods that policymakers and analysts can use to identify the key problems to focus on. One could begin with one or more of the areas listed above. How do you break down the problem into manageable units of analysis? Klitgaard suggests employing the kind of guidelines used by auditing bodies in Western countries such as the U.S. Office of Management and Budget -- what he calls a "vulnerability assessment." The assessors must first divide the agency into functional areas or programs, then pose the following questions in

each such area, using observations, interviews, and documentation of policies and procedures

A Is the *general control environment* permissive of corruption?

- 1 To what degree is management committed to a strong system of internal control?
- 2 Are appropriate reporting relationships in place among the organizational units?
- 3 To what degree is the organization staffed by people of competence and integrity?
- 4 Is authority properly delegated -- and limited?
- 5 Are policies and procedures clear to employees?
- 6 Are budgeting and reporting procedures well specified and effectively implemented?
- 7 Are financial and management controls -- including any use of computers -- well established and safeguarded?

B To what extent does the activity carry the *inherent risk of corruption*?

- 1 To what extent is the program vague or complex in its aims, heavily involved with third-party beneficiaries, dealing in cash, or in the business of approving applications, licenses, permits, or certifications? (The more of these the greater the risk of corruption)
- 2 What is the size of the budget? (The bigger the budget, the greater the loss if corruption exists)

- 3 How large is the financial impact outside the agency? (The greater the "rents," the greater the incentive for corruption)
- 4 Is the program new? Is it working under a tight time constraint or imminent expiration date? (If so, corruption is more likely)
- 5 Is the level of centralization appropriate for the activity?
- 6 Has there been prior evidence of illicit activities here?

C After a preliminary evaluation, to what extent *do existing safeguards and controls seem adequate to control corruption*?²⁴

This assessment leads to further detailed study of structures and procedures in the areas identified as vulnerable. Once the information base is established and the problems adequately understood, remedies can be proposed.

Research

Research into the whole subject of corruption is long overdue in Africa.²⁵ How do corruption networks operate? What are the

²⁴ Robert Klitgaard, *Controlling Corruption*, pp. 84-85

²⁵ Robert Williams (1987) provides an overview of corruption throughout the continent as well as concise cases of the situation in Kenya, Zambia, and Nigeria. Lengthier treatments of the role of corruption can be found for the following countries: Burkina Faso (Kotecha, 1981), Cameroon (Africa International 1989, van de Walle 1990, 1993), Kenya, Liberia (Sawyer 1992), Malawi, Mali (Coulbaly 1995), Morocco (Waterbury

costs and impacts of various types of corruption -- and what are the costliest? What are the most efficacious remedies to malfeasance? What lessons can African countries learn from each other's experiences? How relevant is non-African experience? What constitutes the most effective strategy for training public officials and the general public on how to prevent and discourage governmental corruption? These and other questions are deserving of rigorous examination. Given the sensitivity of the topic of corruption, all research methods, including the two specific examples presented below, must include ways to protect the confidentiality of informants.

Collecting Information on Illegal Payments

An important step in the move to combat corruption is to understand the extent of the problem. Bribery is far from being the only difficulty facing African societies and governments. Moreover, collective action by those who face extortion, or the general public, is never easy. Research that documents the magnitude of the problem, thereby showing that it is not merely a concern of discrete individuals but of a broader population, can provide a major impetus to reform. A way of organizing information on the types, magnitude, and sources of corruption is provided in Box 1 at the end of the Bolivia case study in section 3.4 above.

1979) Niger (Thompson 1977) Nigeria (Joseph, 1987; Olowu 1988, 1991, 1992, 1993), Sierra Leone (Kpundeh, 1993, 1994, 1995; Riley 1983, 1993; Reno, 1995), Zaire (Gould 1980; Callaghy 1984), and Zambia (Szeftel 1983, West 1989). Some research is also being conducted both on specific countries and on control measures. *Corruption and Reform: An International Journal*, coedited since 1986 by Stephen Riley and Michael Johnston and published in the Netherlands, contains examples of both; see also the work of Robert Klitgaard. The Biannual Anti-Corruption conference in the United Kingdom and the work of Transparency International are also examples of research on corruption.

An example of how to go about doing research in this area is the work of researchers affiliated with USAID in Niger. These researchers cooperated with the drivers' union in Niger to collect information on corruption in the trade of agro-pastoral products in West Africa. A description of the methodology used in this work is provided in the Annex to this volume. The results of the research are summarized as part of the Niger case study in section 3.2 above. This type of method could, of course, be used in other regions in connection with land trade routes. Variants of it could be adapted for use in other areas as well, such as entry of goods in seaports, customs, business licensing, investment approvals, zoning and land adjudication etc. Examples of research in these areas are on the increase and can provide useful models for African reformers.²⁶

Surveys

Surveys are particularly useful in describing the characteristics of a large population. Answers to survey questions can provide guidelines to society's ethical standards, tell us whose views are similar to the official views or norms of behavior, show us how personal or universal standards grow out of one's perception of right and wrong, and finally, tell us about people's attitudes toward misconduct in politics and business.

Petty corruption directly affects the daily lives of ordinary men and women. They hold strong views about its impact on the services they are entitled to receive. Perhaps the best approach to date is to poll these people, and if it is done at regular intervals, and in a professional way, it is possible to monitor progress toward the elimination of corruption.

²⁶ See, e.g. Hernando de Soto, *The Other Path*, pp. 131-198 (Harper & Row 1989), and service delivery surveys commissioned by the World Bank Economic Development Institute for example "Mali Enquête sur les Services Publiques," CIET International, July 1995 and "Nicaragua Service Delivery Baseline Survey," CIET International, February 1995.

A 1992 study on attitudes toward bribery and fiscal mismanagement in Sierra Leone²⁷ did not conclusively settle the question of what Sierra Leoneans regard as corruption. However, it yielded an understanding of some of the important distinctions people make in applying, intensifying, or withholding their judgments of wrongdoing. For example, the 1992 data revealed that Sierra Leoneans are quite serious about reducing malfeasance and are willing to support specific measures. They think government should place a high priority on measures to ensure some level of accountability and transparency. Additionally, the data show widespread support for the following measures: legislation that requires candidates for public office to declare their assets, Parliamentary approval of senior-level government appointments, freeing the police from all restrictions on investigative and arrest procedures in corruption cases. Thus, support for such measures is an indication of the gravity of the situation, and that the government should be diligent in its effort to control this malaise.

In a similar study done at the University of Dar es Salaam in Tanzania in 1995,²⁸ corruption was the second most frequently mentioned problem facing Tanzanians (poor health was number one). More than a quarter of the respondents (27%) thought the major role of the government was to protect the personal security and rights of citizens. However, the majority of those interviewed think the government defends the interests of the rich, foreigners, and businessmen, not those of the young, the poor, women or farmers.

In both studies, it is important to remember that it is difficult to realistically provide political protection and confidentiality to

²⁷ See for example, Sahr J. Kpundeh, *Politics and Corruption in Africa: A Case Study of Sierra Leone*, University Press of America, 1994.

²⁸ See for example the following working papers: "Political Transition in Tanzania: A Preliminary Investigation into Political Attitudes of Rural Tanzanians," *Tanzania Development Research Group (TADREG) Working Paper No. 1*, Dar es Salaam, February 1994.

respondents. Most respondents usually volunteer to give information and answer questions on the strict condition they and their institutions are treated anonymously. The fear of uncovering corruption-related scandals is understandable given the negative repercussions. Thus, the studies were not designed to list names of individuals and their institutional affiliations. Despite this problem in most African countries, it is possible to build networks that do not rely solely on official accounts or good-government groups.

Case Studies

The case studies in chapter 3 should have given the reader several helpful and rich illustrations of the ways in which reformers have tackled problems of corruption. All of these cases contain elements of success as well as failure. One can learn from both kinds of experience. It is in the approximation to direct experience -- both the narrative and analytical aspects -- that the power of the case study methodology lies. For this reason, it is a pedagogical cornerstone of leading business and public administration schools, especially in the United States. It was inspired in part by the case method adopted in the nineteenth century by American law schools for the study of the common law, traditionally made up of "case" law or judicial decisions. Case studies therefore orient us towards the empirical -- facts and precedence -- and challenge us to apply the lessons learned in a variety of contexts. Sometimes this approach can prove difficult for people brought up under a different system of pedagogy that places greater emphasis on concepts, abstract reasoning, and the rote learning of analytical systems.

Nevertheless, anyone can profit from case studies, analyze them, present them and use them in a group for policy analysis purposes, and even create them. Readers are encouraged to develop case studies based on experiences of their own countries. The case study and reform strategy frameworks provided at the beginning of Chapter 3 can be used for this purpose. Ideally, a team comprising persons with direct experience, as well as experienced analysts, would work together to develop the case. Outside collaborators

from other countries can be particularly helpful in providing perspective and information, but are not always available, nor are they necessary

At the Dakar workshop sponsored by USAID and IRIS, some thirty-five leading policymakers, jurists, journalists, and NGO representatives from Francophone Africa analyzed case studies from all over the world, and then developed sample case studies from their own countries. As illustrations of this method at work, a sampling of these cases is presented in the Annex to this volume. These cases are not meant to be complete but rather suggestive of how problems can be identified and analyzed with goal of formulating workable solutions.

From Information to Action

Readers of this volume are challenged to apply the methods presented here in their home countries. Having information available -- and especially examples of how problems have been analyzed and tackled -- is essential to any vision of reform.

One might fairly ask what reformers should do with the information once they have collected it. The purpose of this volume, of course, is not to provide portable ready-made answers to the diverse problems of countries in Africa or elsewhere. Rather, the attempt has been to provide analytical tools to aid reformers and their allies in thinking about the problems, to present relevant lessons and models that can be adapted in this effort, and to suggest some methodological starting points. The best response to the question "What next?" is to refer the reader to the *Case Study Policy Analysis Framework* in the Annex to this volume. The present section has focussed on the stage of assessment and diagnosis, and the preceding sections of this chapter on strategy and implementation. While assessment-strategy-implementation would be the ideal order for these steps, opportunities obviously shape what any reformer will be able to do at a given time.

How is action to control corruption likely to come about? While it may happen piecemeal, it will only succeed if it is truly a collective effort of concerned parties acting in concert. The head of state would need to make a commitment on his or her own or under pressure from the public or the international financial institutions. Imaginative solutions will need to be found in the short run in order to break the back of entrenched corruption -- for example, establishing new forms of competition to challenge bureaucratic monopolies, new mechanisms for sharing information on government performance, such as citizen monitoring boards and citizen lawsuits, and increasing deterrence by stiffening the penalties and beefing up or increasing incentives for enforcement. The benefits of these approaches will need to be clear, and there will need to be popular support. Only sustained vision and leadership, coupled with the sharing of information between government and a vigilant public, will make meaningful change possible.²⁹

Change requires political will. This is most difficult to achieve in an established system characterized by systemic corruption. Those benefitting most from such a system will not give up their positions easily, but only their acquiescence will make meaningful change possible. Change is more realistic in a society undergoing a thorough transition from one system to another, including a change of political leadership. As we have seen earlier, Uganda provides an example of this type of change, and it is the radical nature of the transition it has undergone that makes possible its root and branch reform of the civil service. In other situations, the choices are to foment political change, to make a deal with the old guard, or to get consensus to fence one area off from the rest of government -- for example revenue collection in Tanzania -- and pursue fundamental reform in that area. The latter has been termed

²⁹ See section 4.2 for a discussion of political strategies to control corruption.

the "island of integrity" approach³⁰ In any of these configurations, political commitment and agreement to engage in reform precedes any real strengthening of integrity in government

While this volume has focused on the domestic sphere of governance, the international dimension has rapidly grown in importance Most obviously, the World Bank and the bilateral donor agencies, particularly USAID, have taken a keen interest in governance in recent years The Economic Development Institute of the Bank and the Democracy Center of USAID have begun to support conferences, research, and other activities in this area These agencies can sometimes be useful allies to reformers, bringing pressure to bear and providing political cover³¹

Several important steps have been taken recently at the intergovernmental level The Organization for Economic Cooperation and Development (OECD) has attempted to forge consensus on steps to reduce corruption in international business This effort was presaged by the 1977 adoption by the U S of the Foreign Corrupt Practices Act, in effect criminalizing corruption abroad by U S companies The OECD recently agreed on a first step in this direction, banning the tax deductibility of bribes by member country businesses abroad The International Chamber of Commerce has long promoted international business standards, and recently called for greater transparency in licensing and public procurement Statements by the U S Trade Representative and others have put pressure on the World Trade Organization to formalize international procurement standards and impose discipline on corrupt international business practices Finally, the Organization of American States (OAS) recently completed and opened for signature a regional convention against corruption Initiatives such as the OAS treaty can provide models for African governments, the OAU, and other regional entities, while

³⁰ Transparency International p 46 See also the list of causes for the failure of past reform efforts p 19

³¹ For an example of this see the Niger case study in Section 3 2

international and donor agency strictures offer political pressure and support for African reformers

Hence, "What next?" does not have a standard answer. The cases and analysis in this volume suggest a host of possible follow-through steps whose choice necessarily depends on the context -- from experimental pilot reforms and "islands of integrity" to public information campaigns, strengthening of selected agencies, and establishing a national coordinating body for the fight against corruption. In many cases, of course, the assessment and diagnosis stage *follows* a commitment to reform by key decisionmakers as well as the initial outline of a strategy. The obstacles to collective action in this area make the choice of any steps in the direction of reform sensitive ones. If this volume has at least helped illuminate the choices available to reformers in the effort to control corruption, it will have done its work.

ANNEXES

Table 1• Case Study Policy Analysis Framework¹

The cases in this volume are presented, to the extent feasible, according to the following framework. Any problem of corruption that is dealt with through policy change will follow this basic structure of understanding the context, description and analysis of the problem, strategy, implementation, and follow-through.

- 1 The Context Political and socioeconomic situation, transition to a new regime (e.g. after an election, National Conference, enactment of a new constitution, other transfer of power, revelations of corruption and public reaction, strikes)
- 2 Diagnosis/assessment of corruption
 - a Methods of diagnosis
 - Participatory diagnosis workshops for those involved in corrupt systems
 - Systematic anonymous surveys of employees and clients
 - Special studies, including “vulnerability assessments”²
 - b Gathering corruption data
 - Types of corruption
 - Value, i.e. the amount of money or goods exchanged
 - Who is helped and who is hurt?

¹ Based on Robert Klitgaard, 'Healing Sick Institutions: The Case of La Paz, Bolivia' (March, 1996 manuscript)

² See section 4.3

- c Analysis of the causes of corruption
 - Corruption = Monopoly plus Discretion minus Accountability
 - d Effects of the various types of corruption (if knowable) economic, political, other
- 3 Strategy for reform Combatting corruption requires a governance strategy focussing on systems Readers can use the framework for policy analysis (see the table that follows) to brainstorm possible options, their impact, and their direct and indirect costs The general principles are address constraints to collective action, improve incentives, and increase information flow and the probability of detection of corrupt actors This means
- a Selecting agents
 - b Setting rewards and penalties
 - c Obtaining information about results
 - d Restructuring the principal-agent-client relationship reduce monopoly, clarify and limit discretion, and enhance accountability
 - e Raising the “moral costs” of corruption shame and censure
- 4 Implementation
- a How does one implement reforms? Where to start?

Organize the government's efforts coordination and a focal point

"Pick low-hanging fruit" choose a relatively easy-to-fix problem first (e.g. one or more selected agencies where anti-corruption efforts are likely to succeed)

Align with favorable forces (national, international, private sector, NGO)

Break the culture of impunity by "frying a big fish" (prosecution)

Raise the profile of the anti-corruption effort through publicity

Do something good for government officials before seeming to attack them

Strengthen institutional capacity not only through "supply-side measures" (more training, more experts, more computers) but especially through changing systems of information and incentives

Consider how an anti-corruption campaign can galvanize broader and deeper changes in municipal government (such as client consultation, pay-for-performance, privatization with high quality regulation)

b Examples

Civil service/personnel systems changes -- e.g. performance-based pay

Revenue and regulatory simplification

Establish or strengthen auditing functions

"Whistle-blower" incentives and protection

Monitoring by civic groups

Media scrutiny and media independence

Strengthen governance structures checks and balances, administrative and criminal law

Prosecutions, hearings

Closing legal and financial loopholes for corrupt gains

- 5 Sustaining reform -- e g institutionalizing information and incentives, overcoming backsliding, long-term improvement of governance systems and legal culture

Readers are encouraged to keep this framework in mind while reading the case studies, and then to apply the framework to situations familiar to them in their own countries Some additional examples of how this framework has been applied by African officials and activists are presented in the sample case studies in this annex

Table 2: Strategies for Reform³

Following is a more detailed rendition of item 3 above. While this framework most explicitly addresses official policymakers, it can be used equally by independent analysts, activists, journalists, and others. Again, the readers are encouraged to adapt and employ the framework from their own perspectives, and to share their results with AID and IRIS.⁴

A Select agents

- 1 Screen out the dishonest (using past records, tests, predictors of honesty)
- 2 Beef up recruitment by merit and circumvent nepotism
- 3 Exploit outside “guarantees” of honesty (use networks for finding dependable agents and making sure they stay that way)

B Set agents’ rewards and penalties

- 1 Change rewards
 - a Raise salaries to reduce the need for corrupt income
 - b Reward specific actions and agents that reduce corruption
 - c Improve career paths so that promotions depend on performance
 - d Use contingent contracts to reward agents on the basis of eventual success (e.g., forfeitable nonvested pensions, performance bonds)
 - e Link nonmonetary rewards to performance (training, transfers, perks, travel, publicity, praise)

³ Id

⁴ See the section above entitled 'About this Volume

- 2 Penalize corrupt behavior
 - a Raise the severity of formal penalties
 - b Increase the principal's authority to punish
 - c Calibrate penalties in terms of deterrent effects and breaking the culture of corruption
 - d Use a range of penalties (training, transfers, publicity, blackballing, loss of professional standing, perks, and travel privileges)

- C Obtain information about efforts and results
 - 1 Improve auditing and management information systems
 - a Gather evidence about possible corruption (using red flags, statistical analysis, random samples of work, inspections)
 - b Carry out "vulnerability assessments"
 - 2 Strengthen information agents
 - a Beef up specialized staff (auditors, computer specialists, investigators, supervisors, internal security)
 - b Create a climate in which agents (e g , whistle-blowers) will report improper activities
 - c Create new units (ombudsmen special investigatory committees, anti-corruption agencies, inquiry commissions)
 - 3 Collect information from third parties (media, banks)
 - 4 Collect information from clients and the public (including professional associations)
 - 5 Change the burden of proof, so that the potentially corrupt (e g , public servants with great wealth) have to demonstrate their innocence

D Restructure the principal-agent-client relationship to leaven monopoly power, circumscribe discretion, and enhance accountability

- 1 Induce competition in the provision of the good or service (through privatization, public-private competition, competition among public agents)
- 2 Limit agents' discretion
 - a Define objectives, rules, and procedures more clearly and publicize them
 - b Have agents work in teams and subject them to hierarchical review
 - c Divide large decisions into separable tasks
 - d Clarify and circumscribe agents' influence over key decisions (change decision rules, change decision makers, alter incentives)
- 3 Rotate agents functionally and geographically
- 4 Change the organization's mission, product, or technology to render them less susceptible to corruption
- 5 Organize client groups to render them less susceptible to some forms of corruption, to promote information flows, and to create an anti-corruption lobby

E Raise the "moral costs" of corruption

- 1 Use training, educational programs, and personal example
- 2 Promulgate a code of ethics (for civil service, profession, agency)
- 3 Change the corporate culture

Collecting Information on Illegal Payments⁵

An example of research methods used in obtaining information about corruption is USAID's work with the drivers' union in Niger, to collect information on "Illicit Enrichment Activities" (IEAs) in the trade of agro-pastoral products in West Africa. In the case study presented in chapter 3, it was shown how informal road barriers and bribery raise the costs of regional trade.⁶ How have the USAID researchers gone about gathering the relevant information?

(a) Information Collection Method USAID works in collaboration with exporters, transporters and drivers' unions in major agriculture and livestock production areas of Niger to monitor illegal payments. Researchers ask the drivers to specify the amount of money they give at each checkpoint to government agents during their latest journey. These amounts are those paid without a receipt. The drivers also state to what type of agent the money is given (customs, gendarmerie, police, or other military or para-military forces). This method has been improved since 1992 to add new information, such as time wasted, which is an important issue when the transported product is a perishable one, such as onions.

Loss of perishable produce is a direct function of the wasted time or "additional travel time" due to illegal payment delays. This varies by season, with early season onions being more robust than those transported in the fall after they have been in storage. Hence, the total cost of these IEAs on roads is comprised of

- 1 cash costs
- 2 wasted time (driver and vehicle)
- 3 loss of produce (quality and quantity if totally spoiled)

⁵ Sidi Mohamed Iddal and Glenn Rogers, edited text

⁶ See section 3.2

In 1994, cash costs represented roughly one third of the total of these three costs for onions transported from Niger to Abidjan and Accra

(b) *Future Plans for Information Collection* The USAID researchers are interested in amounts given to agents both in the trade of agro-pastoral products on the major export routes within Niger and also in other export market countries in West Africa. In several countries, private sector actors are interested in setting up illegal payments monitoring systems. The West African Enterprise Network is now pursuing this in Mali, Senegal, and Cote d'Ivoire

USAID/Niger drafted a table for data collection to be discussed with the transporters' union in Niger. Once it is final, it will be disseminated to drivers by their union. The plan is to have them fill it in during their trips and send it back to the union. The union will send it to USAID for data entry and computer analysis in collaboration with African regional institutions.

A model of the proposed data collection table entitled "Monitoring Table of Harassment on Export Routes" is shown below.

- 1 Country Name
- 2 Route (beginning and end point)
- 3 Month and Year of the Trip
- 4 Transported Product (onions, livestock, imported products, etc)
- 5 Quantity (Metric Tons)
- 6 Length (Km) of the route
- 7 Location of the Roadblock (Town/Village and *sous-prefecture*)
- 8 Cash or in-kind amount given and to whom given
- 9 Number of minutes spent at each checkpoint
- 10 Total time (days) for the trip
- 11 Total amount of cash spent en route

(c) End Users The collected information will be computerized for analysis, and graphs and other monitoring tools can be produced for use by donors, transporters and drivers' unions, Nigerien and West African policymakers, and regional organizations such as ECOWAS and UTRAO. This information can have a real and positive impact on the macro-economic environment for the private sector and promote regional integration, as the case study in chapter 3 demonstrates. Currently, USAID is working with the CILSS group of technical institutions (AGRHYMET and INSAH) to do the analysis. The WAEN (West African Enterprise Network) of businessmen is pursuing options for monitoring illegal payments more broadly and using this in their dialogue with national governments and regional inter-governmental organizations. WAEN has already had one meeting to create a platform of proposals to present to the ECOWAS heads of state meeting in July 1996. Currently, discussions are ongoing about how to most effectively disseminate this information while protecting the organizations that provide the data.

(d) Expected Impact on IEAs The impact on the reduction of corruption could be very important, especially since the monitoring and reporting is increasingly broad-based. Indeed, if government agents are aware of these monitoring and information dissemination efforts it will place pressure on them and make it more difficult for them to ask for bribes. These efforts to reduce corruption in the trade of agro-pastoral products also have an impact on what happens in other parts of the public sector.

Sample Case Studies by Dakar Workshop Participants

Participants at the Dakar workshop sponsored by USAID and IRIS developed a series of sample case studies from their own countries. As illustrations of this method at work, a sampling of these cases is presented below. The names of the countries and participants involved are not provided for reasons of confidentiality. The cases as developed by these participants and as presented below are not meant to be complete but rather suggestive of how problems can be identified and analyzed with goal of formulating workable solutions.

Case Study A Allocation of Space in Urban Marketplaces

Context The general context is that of a large African city where the administration suffers from corruption scandals in the run-up to local elections. Rapid rural-urban migration is taking place in a setting of endemic unemployment. Informal sector businesses are growing in number at a rapid rate, absorbing some of those without formal employment.

Diagnosis In this case, as in the one that follows, workshop participants identified and diagnosed the problems as a group. In practice, of course, this step requires a great deal of information and the cultivation of information sources among employees, client populations, and outside observers.

(1) *Problem* -- In this situation, the public marketplaces assume great importance as the site of small and microenterprise activity. However, systems for attributing market stalls -- for example at urban food markets -- have become corrupt. Small entrepreneurs pay several layers of fees that go into the coffers of the *commune*, but the rules applicable to zoning, occupation, and transfer of market space are not followed. The placement of market stalls, in reality, is not done on a transparent basis. Spaces are often attributed several times to different entrepreneurs, and typically in

return for bribes. Indeed, a kind of public-private secondary market for slots has cropped up, with officials sometimes engaging in speculation.

(11) Consequences -- The results of this problem include, first, insecurity of tenure in the marketplace. Attribution of market space has become anarchic and conflict-ridden, increasing the uncertainty and costs faced by small entrepreneurs. In addition to business losses, the local administration loses revenue due to evasion of fees and arrearages. Opportunities to obtain illicit advantages over competitors result in unfair competition between merchants, with consequent distortion of urban consumer and labor markets. Finally, corrupt incentives encourage payoff arrangements, which damage the credibility of the local authorities.

Strategy and Implementation First, an assessment of the situation is called for by the Office of the Inspector General. The situation on the ground at the marketplace should be reviewed, along with the applicable rules and procedures, and some assessment made of the level of illegal attributions. Standards for employee practice at the bureau of the *mairie* responsible for market zoning should also be examined, and the workers' performance evaluated. What actions should be taken? This would, of course, depend on the results of the assessment, but the options are likely to include

- 1 Cleaning up the bureau by developing a new manual of procedures, making management and personnel standards more stringent, firing employees found to have engaged in irregularities, and recovering arrearages.
- 2 Undertaking a transparent redistribution of market stalls based on objective and published criteria. The local population, including interested merchants and residents of the surrounding area, should be involved in the process, perhaps through

town meetings or hearings. The new attribution process would then be applied and regularized.

3. Creating or strengthening control systems. This would include internal auditing systems and sanctions. In cases where abuses or illegalities are suspected, aggrieved parties should have the right to appear before an administrative tribunal to make complaints and to defend themselves.
4. Adjusting fees to restore lost municipal revenue and to allow for improved public salaries, performance incentives, and the like.

Case Study B Award of Fisheries Licenses

Context The economy of this coastal African state depends heavily on natural resources, including its fisheries. Indigenous fishermen, largely using traditional methods, are increasingly challenging -- and challenged by -- mechanized fishing fleets from abroad, some of them exercising influence in this country's national government.

Diagnosis As above, actual diagnosis requires careful study and multiple information sources.

(i) *Problem* -- Corruption has become a significant problem in the granting of fisheries concessions at the Fisheries Ministry. Its manifestations include illegal grant of licenses in return for bribes or favors, illicit use of licensed fishing boats by unlicensed persons or entities, purchase and resale of licenses by government officials, and the formation of fishing companies with the participation of public officials.

(ii) *Causes* -- Three ministries have responsibility in this area: Fisheries, Finance, and Navy/Coast Guard. The roles of these ministries are not clearly defined, and they do not work in

coordination Public servants responsible for fisheries licensing are paid very badly Failure to prosecute or discipline corruption in this area in the past, along with a pervasive attitude towards corruption of "live and let live," discourages accountability Finally, these things, combined with the monopoly power of a select group of public servants over the issuance of licenses, have encouraged corruption

(11) Consequences -- These include illicit enrichment of bureaucrats and the loss of revenue to the state Unfair competition leads to economic distortions and inefficiencies Of greater importance in the longer term is the resulting lack of control over exploitation of coastal resources, which opens the door to their arbitrary and unsustainable use, and eventual exhaustion Finally, the system encourages illicit collusion and corruption, which damages the legitimacy of the state

Strategy and Implementation The strategy for reform involves toughening controls and sanctions, improving public servant incentives, and forging cooperation with a host of outside sources of information and oversight Here again, designing and implementing a strategy would normally involve broad-based research and discussion The possible measures to be adopted include

- 1 Reinforcing administrative and legal oversight mechanisms -- including strengthening the role of the *Cour des Comptes*
- 2 More severe sanctions against offenders on either side
- 3 Improving pay packages of employees who are performing well
- 4 Public information campaigns concerning procedures and controls
- 5 Greater cooperation among ministries and legal authorities such as the criminal courts, administrative tribunals, and the procuracy

- 6 Increased international legal cooperation between domestic authorities, foreign governments, and international agencies

**Questionnaire Responses from Participants in
Seminar on Good Governance and the Economy in
Francophone Africa, Dakar, Senegal, March 5-7,
1996**

Question 1 Do you agree that issues of governance and corruption are a high priority for African countries? For your country? What issues in particular?

Yes 16

No 2

No answer 1

The participants who answered Yes mentioned one of more of the following problems Corruption and fraud in

Management of public companies 12 , public markets 2,
fiscal administration 3, customs 1, justice 1, overall 2

The participants who answered No placed economic development as a higher priority, the fight against corruption being ancillary

Summary Participants overwhelmingly agreed that corruption was a major problem in their respective countries, particularly in the public sector Some listed specific departments such as Internal Revenue, Customs or Justice Only two disagreed, placing economic development as a higher priority One however acknowledged that the fight against corruption provided for a better development

Question 2 Do you face these issues in your work? How? Is change possible, and do you plan to do anything about them?

Yes 14

No 5

No answer 0

The participants who answered Yes mentioned
control missions 2, tribunals 2, importation of parts 2,

Most people who said No did not provide justification

Most participants agreed that they were or had been confronted with the problem They mentioned bribes being offered to exert lesser controls, to influence a judicial decision, to speed up the procurement of foreign or domestic parts One person who said No stated that Members of Parliament do not have access to important cash resources Several participants suggested solutions which included creating an ethics code, organizing, imposing sanctions, collecting information, creating youth groups, giving better pay, publishing the results of controls and increasing exchange between services and NGOs

Question 3 Which workshop sessions were most useful to you and why?

All 5

Case studies 6

Other 8

methodology 2 , criteria for assessing level of corruption 1,
Philippine case 1, internalization of the problem 1, issues
pertaining to civil society 1, topic 3 and 4 1
fight against corruption 1

All the participants stated that they had been interested in the seminar and that it was as a whole or in part relevant to their own case. There seems to be a division between people who found all the sessions worthwhile and those who gave a higher mark to case studies. On the whole, people stated that they liked the balance between theory and methodology and case studies. Several participants indicated that they were very interested in discovering how the problem affected other countries located outside Africa and how these dealt with the problem.

Question 4 Which workshop sessions were least useful to you and why?

All were good 4

No answer or "Please refer to #3" 14

Answers other than above 3

Most people chose to answer questions 3 and 4 together. Those who provided detailed answers to question #4 mentioned the following topics as less relevant to their concerns: theoretical exposes 2, environmental protection 1.

Question 5 Was the overall level of discussion satisfactory, too advanced, or too simplistic for you?

Satisfactory 19

Everyone agreed that the level was satisfactory. Two persons, however, indicated that the approach was sometimes too "academic" and that a more concrete one would be appreciated.

Question 6 Would you recommend any changes in the format of any future workshops? For instance, number of sessions, types of handouts, involvement of participants, etc

No change 2

No answer 2

The people who provided specific answers listed the following grievances

greater involvement of participants 6

advance notice of topics 3

more time for other activities (visits) 2

not enough time to go in depth 2

more examples in speakers' countries of origin 1

more concise handouts (e g summaries of presentations) 1

Some people mentioned two or more of the above. The trend seems to be towards asking for opportunities for greater involvement. A few participants would have liked to delve more deeply into the topic, to have advance notice of the issues raised and to be provided with more concise hand-outs. Two suggested organizing such a seminar in their respective countries.

Question 7 How do you intend to use what you have learned during the workshop, or any additional information you receive from us, when you return to your regular work? Please give specific examples

Each participant seems to have stressed a particular aspect. However some comments came more than once. The trend is towards sharing information through

- giving reports to various parties such as the general public 2, journalists, 1, the NGOs 1, group members 1, control staff 1, one's supervisor or government 2,
- setting up round tables,

- forming an organization to make people more aware of the issue,
- helping design a regional anti-corruption program for USAID

Others mentioned more direct modes of intervention such as strengthening an information gathering service, modifying control missions, striving for more transparency, increasing competition and applying sanctions

Questions 8a and 8b Were there particular issues during the workshop on which you would like more information? Other issues not covered in the workshop?

Participants have tended not to differentiate between the two sub-questions. Again, it is difficult to provide a breakdown of answers as each person seems to have mentioned different topics

Here is a list of the issues raised

- broad topics

economic growth and the economic impact of corruption,
 the role of democracy,
 prevention services against corruption,
 concrete means to fight corruption,
 money laundering,
 international cooperation,
 legislative controls,
 role played by the press, the civil society and international partners,
 the impact of cultural influences on corruption,
 more transparency

- specific topics

corruption and external trade,
successful ventures against corruption,
the ombudsman
corruption in Northern countries,
corruption in multinational corporations involved in Africa,
protection of control officers internally and internationally

One person suggested creating an information bulletin on known cases and another wondered if corruption is just part of human nature or a result of institutional factors

Question 9 If there are issues on which you would like more information, what form should this take -- examples and case studies, research and analysis, laws and procedures from other countries, international standards and organizations?

Research and analysis 7
International standards and organizations 5
Case studies 4
Laws and procedures in other countries 4
Documents, brochures 3
Mail 1
Reference books 1
No answer 1

Most participants stressed research and analysis. Several voiced a strong interest in the impact of corruption in non-African countries and the means implemented to fight it there.

Question 10 Are there other people who you think would be interested in receiving this information?

No answer 2

Most participants mentioned several other parties who would be interested in receiving information

Suggestions include

Human rights organizations, students, managerial associations, unions, journalists, law-makers, customs-officers, regional USAID offices

Question 11 Are there other things that we could do to assist you in this area -- training, technical assistance, joint research, public information, consensus-building?

Training 8

Public information 4

Joint research 5

Technical assistance 7

Help with disseminating information 1

No answer 3

Most people favored training and technical assistance Joint research and information dissemination ranked a close second

Comments

Several participants stressed the need for a sound follow-up so as to ensure that the efforts made to organize this seminar will not be to no avail One person mentioned the creation of an information bulletin which would enable participants to remain in contact, another asked for help in creating an interafrican lobby against corruption

Dakar Workshop Program

GOOD GOVERNANCE AND THE ECONOMY IN FRANCOPHONE AFRICA

**A Workshop Sponsored by USAID/Senegal In Association
with the IRIS Center, University of Maryland**

DAKAR, SENEGAL, MARCH 5-7, 1996

This workshop focuses on the relationships between good governance and economic performance. The goal is practical to develop analytical tools and strategies for the task of building effective governance mechanisms in the participants' home country environments. Problems of governance -- including lack of transparency, inadequate information or uncertainty surrounding regulation, and the corruption that can result -- place obstacles in the path of economic progress in African countries. A regional forum for exploring new strategies in this area will help participants forge common approaches to these issues and link them to ongoing West African and Francophone initiatives on trade and investment. Case studies and examples from Africa -- and beyond Africa -- will be analyzed. In order to facilitate follow-on action, IRIS will publish a volume containing analytical and practical tools for the implementation of reform strategies.

Day 1

7 30 - 8 15 Registration

****Opening Ceremony****

8 15 - 8 30 Welcome by Mark Johnson, U S
 Ambassador to Senegal

- 8 30 - 8 45 Opening Address by Papa Ousmane Sakho, Minister of Finance of Senegal
- 9 00 - 9 15 Preview and Conceptual Framework for the Workshop
- Patrick Meagher, IRIS
- Overview of workshop themes the governance dimension of a market economy, the economic stakes for the region, incentive structures, the shape and role of the public sector, external mechanisms of accountability

****Topic 1 The "Problematique"*****

The discussion of governance, corruption, and reform strategies in the workshop begins with the following scenario You are taking over a large government organization that has virtually collapsed Spending is far in excess of the budget Pay scales have collapsed, so employees are shirking their work and involving themselves in widespread corruption Basic services aren't being provided What do you do with your "sick institution"?

- 9 15 - 9 45 Presentation of Live Case Municipality of La Paz, Bolivia
- Robert Klitgaard, Professor of Economics, University of Natal
- 9 45 - 10 30 Small group analysis and discussion of the case study
- 10 30 - 11 15 Plenary discussion of small group findings and case study results

11 15 - 11 30	Break
11 30 - 12 30	"Sick institutions" and Francophone Africa Robert Klitgaard Presentation followed by facilitated discussion, relating the La Paz case study to institutional pathologies, governance and corruption problems, economic and cultural issues, and successful reforms in the region
12 30 - 2 00	Lunch

****Topic 2 The Broader Stakes****

Tools are presented in this part of the workshop for analyzing problems of governance and for understanding their economic importance and their broader influence. Methods of corruption and their relationship to both patterns of economic behavior and traditions of governance will be explored, as will ways of identifying stakeholders in the status quo and in reform.

2 00 - 2 30	Presentation Economic Perspective on Corruption and Its Costs Susan Rose-Ackerman, Professor of Law and Political Science, Yale University and Visiting Researcher, the World Bank Analysis of economic costs, incentives, distortions, and trade-offs related to corruption
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2 30 - 3 15

Participant Group Response and Discussion Economic and Other Costs of Corruption

Discussants **Woury Diallo, Director of Debt and Investment, Ministry of Finance of Senegal**
Sidi Mohamed Iddal, USAID/Niger

Moderator **Thierry van Bastelaer, IRIS**

3 15 - 3 30

Break

3 30 - 5 00

Panel Governance, Trade, and the Economy in Francophone Africa -- Problems, Progress, Remaining Obstacles

a **Presentation Reduction of Illegal Payments in Niger**

Glenn Rogers, USAID/REDSO for West and Central Africa
Sidi Mohamed Iddal

Presentation of mini-case on illegal roadblocks and payments by truckers in Niger, their effect on trade, and reform efforts

b **Presentation Corruption and International Trade**

Henri-Pierre Debord, Service Central de Prévention de la Corruption, France

Presentation of typology and analysis of methods used in trade-related corruption, and approaches taken by the Government of France in combatting it

c Participant Group Response and Discussion Governance Priorities and Prospects in the Region

Discussants Susan Rose-Ackerman
René Lemarchand,
USAID/REDSO for West
and Central Africa

Moderator Patrick Meagher

Discussion relating the issues raised in the presentations to governance priorities in Francophone Africa. This discussion will touch on the economic and other effects of corruption, the influence of cultures and political systems, and the relative priority of key governance problems

Day 2

8 30 - 8 45

Preview of Day's Themes Modes of Accountability and Strategies for Achieving Them

Thierry van Bastelaer

Overview, touching on public sector governance and anti-corruption strategy

****Topic 3 The Idea of a National Strategy Against Corruption****

In any city, country, or society, taking action to combat corruption and build effective governance structures requires a strategy. What are possible strategies? What are some of the institutional responses that have worked? Can the key ingredients of success be identified in a useful way for African reform efforts?

- | | |
|---------------|--|
| 8 45 - 9 15 | Presentation of Live Case Anticorruption Strategy and the ICAC in Hong Kong

Robert Klitgaard |
| 9 15 - 10 00 | Analysis and discussion of case study by small groups |
| 10 00 - 10 45 | Plenary discussion of small group findings and actual case results |
| 10 45 - 11 00 | Break |
| 11 00 - 12 30 | Panel Special Oversight Bodies and Anticorruption Strategies

Presentations and discussion of the genesis of oversight bodies in France and Senegal, including the main problems and strategic concerns addressed, and relating back to the themes of the Hong Kong case study

a Presentation Good Governance and Experience with the Institution of Ombudsman in Senegal |

Madou Sall, Secretary General, Office of
the Mediateur de la Republique

b Presentation Anticorruption Strategy
and the Establishment of the Service de
Prévention de la Corruption in France

Henri-Pierre Debord

c Participant Group Response and
Discussion

Discussants	Rodger Chongwe, Zambian Advocate and T r a n s p a r e n c y International Board Member Moussa Okanla, USAID/REDSO for West and Central Africa
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Moderator	Thierry van Bastelaer
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12 30 - 2 00

Lunch

****Topic 4 Public Sector Reforms and Governance****

Appropriate incentives and systems of control from within the administration are critically important to good governance. Some African countries have begun to revamp their administrative controls, for example creating or strengthening audit functions, and legislating government codes of conduct. Systemic reforms that can help strengthen governance include deregulation, decentralization, and regional (supranational) standard-setting.

Panel Downsizing, Decentralization, and Privatization Impact on Governance

a Presentation Leaner Government and Corruption

Susan Rose-Ackerman

Analysis of the impacts on corruption of reducing the size of government Some benefits will be shown, but the evidence is mixed

b Presentation The Flip Side of Governance -- Social Exchange and Corruption

René Lemarchand

View of corruption in Africa as a problem of governance What are its roots and impacts? What is its relationship to the level of centralization vs subsidiarity, and the tasks government takes on?

c Presentation Regional Examples of Administrative Reform Affecting Governance

Magatte Wade, President of AGETIP

A case of privatization in the region and its impact on governance

d Participant Group Response and Discussion

Discussants Glenn Rogers
Thandika, CODESRIA

Moderator Patrick Meagher

Discussion of the relationship between the tasks taken on by the public sector the incentive structures created, and problems of corruption The discussion will relate back to the case study of national reform strategies, and highlight the elements needed for success

3 45 - 4 00

Break

4 00 - 5 00

Mini-Case Administrative Reform in a Tax Bureau -- the Philippines

Robert Klitgaard

Presentation of live case, analysis in plenary, presentation of actual case results, and discussion The case and discussion provide an example of public sector reform, and demonstrate potential strategies of improving governance within specified agencies in a context of endemic political corruption

Day 3

8 30 - 8 45

Preview of Day's Themes Modes of External Accountability

David Fagelson, IRIS

An overview of the idea of external accountability in the public and private sector and mechanisms for achieving it, such as an independent judiciary, legislative oversight, and civil society -- including the press and private sector

****Topic 5 External Mechanisms of Accountability****

A critical dimension of governance is independent oversight This includes legislative oversight of the executive's use of public resources, as well as oversight by free-standing authorities such as supervisory commissions and ombudsmen, and monitoring by citizen groups The constitutional dimension of this concerns the separation of legislative from executive power, the independence of the judiciary, and citizen rights to information, to petition and impose accountability on its governmental representatives, and to free association and expression Finally, supranational bodies can help impose accountability

8 45 - 10 00

Panel Separation of Powers, The Rule of Law, and Governance

a Presentation Independent and Accountable Judicial Institutions

Ousmane Camara, Mediateur de la Republique and former President of the Supreme Court of Senegal

Analysis of the role of independent judicial institutions in good governance, executive accountability, and the prevention of corruption. Examples of the problems facing African judiciaries and the emergence of independent judicial organs in Africa will be considered, and the conditions for judicial independence highlighted.

b Presentation Legislative Oversight

Rodger Chongwe

Analysis of the role independent legislative powers and oversight in good governance. Examples will be presented of the problems facing African legislatures and the emergence of legislative oversight practice in Africa.

c Presentation The Role of Civil Society in Fighting Corruption

Abdourahmane Gayakoye, Criminal Magistrate and Member, GERDDES, Niger

Analysis of the role of NGOs, private associations, and the press in promoting accountable and transparent government. Special focus is on the relationship between civil society, the judiciary, and government in promoting accountability in Niger during its transition to democracy, and the effects of the coup in early 1996.

d Discussion

Moderator David Fagelson

****Participant Case Studies Improving Governance in Francophone Africa****

Working in small groups by country, with the IRIS team and AID officials as facilitators, the participants develop case studies out of actual situations in their home countries. This is meant as an exercise in the application of the concepts and analytical tools introduced throughout the workshop, and as the beginning of the formulation of follow-on steps by the participants. The small group case studies are prepared and presented to the plenary for discussion, which allows for analysis, debate, and sharing of experiences across country groups.

- | | |
|---------------|---|
| 10 00 - 10 15 | Presentation Introduction to the case study exercise

Robert Klitgaard |
| 10 15 - 11 00 | Small Group Work by Country Selection of a real situation for the case study |
| 11 15 - 12 30 | Small Group Work by Country Preparation of the context and consequences of the situation chosen, analysis and discussion of solutions |
| 12 30 - 2 00 | Working lunch with country groups pairing off to compare the situations and remedies developed by each country group |

- 2 00 - 2 05 Presentation International Support for
Strengthening Governance -- the USAID
Democracy and Governance Program
- Jill Rhodes, Democracy Center, USAID
- 2 05 - 3 00 Small Group Work by Country
Refinement and final preparation of case
study, preparation of texts on
transparencies
- 3 00 - 4 30 Plenary Presentation of case studies by
country groups, and plenary discussion
- Moderator Robert Klitgaard
- 4 30 - 5 15 Plenary Synthesis of the case study
results, strategies and solutions chosen,
and discussion
- Moderator Robert Klitgaard

****Closing Ceremony****

- 5 15 - 5 30 Concluding remarks by Mamadou Lamine
Loum, Director of Budget, Ministry of
Finance of Senegal and Anne Williams
Word of thanks by Patrick Meagher
- 6 30 - 8 00 Workshop Closure cocktail reception and
presentation of certificates to participants

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