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CORRUPTION RUINS LIVES.
FIGHT BACK.

Part I: The Analytical Framework

The Challenge of Renovation

Corruption appears to be increasing, despite a growing number of empirical evidence as to the destructive forces it unleashes. When important decisions are determined by ulterior motives with no concern for the consequences for the state and the wider community, the political, economic and social costs are high. Corruption control is therefore not simply an end in itself but is crucial and instrumental in reaching the broader goal of more effective, fair and efficient government for the benefit of all.

The Anatomy of Corruption

Corruption involves behaviour on the part of public officials--be they elected politicians or appointed civil servants--in which they improperly and unlawfully enrich themselves or those close to them, by the misuse of the power entrusted to them. Although the causes of corruption and the forms it takes vary depending on the respective system and context, corruption invariably impacts negatively on the great majority of society.

Developing Responses

The fight against corruption is demanding, as change must not only be achieved, but be sustainable. Complete eradication is both unrealistic and undesirable: unrealistic, as corrupt individuals will always be with us, and undesirable, as to aim at complete elimination of corruption could place civil and political human rights at risk. The need to overcome vested interests, as well as the difficulty of finding credible reformers and of ensuring the support of a wide coalition of stakeholders is a task that should not be underestimated. Reform must attract broad support and involve strategies to deal with the legacy of the past. Systemic change is essential, as merely replacing one corrupt individual with another who has not (yet) been corrupted, is not an effective response. "Horizontal accountability" offers the best overall system of checks and balances.

The National Integrity System

The National Integrity System is the sum total of the institutions and practices within a given country that address aspects of maintaining the honesty and integrity of government and private sector institutions. Any attempt to address corruption effectively and sustainably involves an holistic approach, examining each of these institutions and practices and the various inter-relationships to determine where remedial action is required. Ad hoc reforms are unlikely to succeed.

Building Political Will

Leadership is critical in both driving a reform programme and in leading by example. However, electing a honest head of state or government does not necessarily guarantee the launch and implementation of an effective reform programme: support from a broad section of society is critical to its success, or failure. Champions of reform must muster commitment from a wide variety of constituencies. The task of building political will can begin at the grassroots, and does not end with the government embarking on reforms. Reforms must be supported through the often difficult times that lie ahead.

Part II: Institutional Pillars of the National Integrity System

An Elected Legislature

Elected parliaments can be at the forefront of the fight against corruption. An elected parliament has the legitimacy to hold the executive accountable. However, a corrupt political elite--often sustained by illicit political party financing--and obscure practices in both public appointments and decision-making processes are major obstacles to reform.

The Role of the Executive

The Executive has a central role in building, maintaining and respecting a country's national integrity system. Ideally, the Executive will provide a living example of a country's integrity to the political system and its components and assume the role of the leader in terms of pro-democratic reform. A honest but isolated Executive, however, is not sufficient. It is essential that dispositions be put in place which specify not only the role and responsibilities of the government, but that also clarify its interrelationship with other public and private bodies.

An Independent Judicial System

An independent, impartial and informed judiciary holds a central place in the realisation of a just, honest, open and accountable government. Being exempt from direct control, the rules of appointment, status and conduct of its members are of utmost importance. However, individual members of the judiciary must be held accountable in ways that do not compromise the institution's independence. Such accountability strengthens the institution's independence: it increases integrity and helps to protect the judicial power from those who might want to erode it. Otherwise a judiciary can become simply a tool in the hands of powerful--and corrupt--elite.

The Auditor-General

The Supreme Audit Institution is responsible for auditing the state's income and expenditure, and acting as a watchdog over its financial integrity. As an external auditor acting on behalf of the tax payer and his representatives in parliament, it is essential that the Auditor-General is not appointed by the governing party and that he / she enjoys appropriate tenure of office.

The Ombudsman

The Ombudsman constitutes an office which, independently of the executive, receives and investigates complaints about maladministration. It gives individuals the opportunity to have decisions which affect them reviewed by an independent and expert body, without the expenses and delays of court proceedings. Independence from political interference, adequate resources, accessibility and high levels of public recognition are among the prerequisites for its effectiveness.

Independent Anti-Corruption Agencies

As corrupt practices become ever more sophisticated, conventional law enforcement agencies are less well placed to detect and prosecute corruption cases. Specialised and independent anti-corruption agencies can present the advantage of being exclusively devoted to fighting corruption. The success of such agency depends on both the determination and integrity of its staff and the political will for it to succeed as displayed and fostered by country's leadership. Without proper resources, the guarantee of independence and inter-institutional support, the best-intended agency will fail to fulfil expectation. In a best case scenario, however, an ICAC can be an important part of a broader national plan of action.

Public Service to Serve the Public

In an ideal world impartial and honest civil servants execute their tasks in an efficient and unbiased way for the benefit of society. Assisting the government in the formulation and execution of policies, the civil service is the link between the governors and the governed and is, as such, at the centre of potential conflicts. Exposed to threats from both the top (politicisation of the civil service) and the bottom levels (unsolicited bribes), the maintenance of its members' integrity is a key to efficient service delivery and just and honest government.

Local Government

Local governments have increasingly come into the focus of anti-corruption strategists as it is on the local level that the direct effects of corruption impact most visibly on the ordinary citizen. Corruption should not only be fought from the top; an important bottom-up dimension is added by targeting the municipal level.

An Independent and Free Media

Availability of information is a prerequisite for the creation of an informed public, empowered to participate meaningfully in public debate and to hold those who govern accountable. It is fundamental to democracy itself. A free and independent media is the principal vehicle for taking information to the public. A free, independent, accountable and ethical media whose status is protected by the law and who is not subject to political or otherwise opportunistic leadership can assume an important watchdog function and act as an agent of awareness. Freedom of speech and information, however, has its limits where their dissemination goes against the public interest.

Civil Society

Civil society--the sum of organisations and networks which lie outside the formal state apparatus and that gain legitimacy for their actions from promoting the public interest on a non profit basis--has emerged as a central player in world politics. Adding a third dimension to the traditional public-private axis, civil society (i.e. non-governmental) organisations have effectively backed popular demands for greater accountability and responsiveness and helped to initiate important anti-corruption efforts. The institutionalisation of civil society participation is thus a major challenge and can add an important bottom-up dimension to conventional anti-corruption strategies.

The Private Corporate Sector

The private sector has a special role to play in the maintenance of a country's national integrity. Corporations exist to make profits, and if they fail, their stakeholders will suffer. However, the view that 'all that matters is the bottom line' is giving way to a new sense of corporate responsibility both within the organisation and towards the societies in which they operate. This development is ever more important as the private sector is increasingly given the task of providing essential goods and services that previously were in the preserve of government agencies. Corruption can occur both within the private sector and among the private and public sectors, and there is a growing body of evidence that companies that tolerate corruption are placing themselves at risk. It is therefore crucial that businesses come to see the benefits of good corporate governance and play an active part in containing corruption.

International Actors and Mechanisms

It is essential that steps be taken to facilitate international co-operation in the field of corruption prevention and prosecution. Many countries are now moving towards the development of formalised international assistance arrangements--such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) and the Inter-American Convention against Corruption (1996)--in the light of an ever greater recognition of the adverse effects of corruption and the moral responsibility of governments to avoid harbouring its proceeds.

Part III: Rules and Practices for the Institutional Pillars**Free and Fair Elections**

A government's legitimacy is based on the belief of its people in its right to govern. The way in which this mandate is acquired is crucial to the readiness of all to acknowledge it: a lack of legitimacy almost inevitably breeds a climate in which corruption can blossom. The mechanisms through which elections can be held in a fair and transparent way is of utmost importance wherever leaders seek to legitimate their rule through the electoral process.

Administrative Law--Judicial Review of Official Actions

Administrative Law provides judicial review of the lawfulness of specific administrative acts and enables the citizen to challenge actions which adversely affect him or her. Administrative law should fully support and enforce transparency and accountability of the part of public officials.

Public Service Ethics, Monitoring Assets and Integrity Testing

The need to foster and sustain high levels of ethics in the public service has come into the spotlight with a global shift of focus towards the performance and importance of the public sector and its service delivery. Increased concern about corruption and the decline of confidence in both integrity and capacity of public administration has prompted many governments to review their approaches to ethical conduct. Integrity of public officials can come under pressure in a variety of ways, and it is thus essential that ethical codes are tailored to the society's conditions. Integrity testing can have a role to play, and the assets and liabilities of officers at particular risk may need to be monitored.

Conflict of Interest, Nepotism and Cronyism

A conflict of interest arises when a person in a decision-making position is influenced by personal considerations when doing his or her job. Conflicts of interest, as well as the closely related phenomena of nepotism and cronyism are inherently counterproductive. It is thus essential that clear and unambiguous measures be taken--such as procedural statements and codes of conduct--that help to identify and to deal with actual, potential and perceived conflicts of interest and that prevent them from seriously undermining the functioning of an organisation.

Public Procurement: Where the Public and Private Sectors Do Business

Few activities create greater incentives, or offer more opportunities for corruption than public sector procurement. This is primarily because it usually involves large quantities and monetary amounts in deals between every level of government and every type of government organisation. Procurement procedures often appear to be complicated, and so are readily manipulated in a variety of ways, in corrupt transactions that benefits both parties.

Good Financial Management

Good financial management practices are one of the most powerful anti-corruption devices. They can inhibit, disclose and help identify corrupt practices and their perpetrators. The system should provide vital information for various--public and private sector--watchdogs on the basis of which decisions can be made. Poor, disconnected and untimely accounting systems and disintegrated approaches to financial management virtually incite fraud, just as good financial management provides protection for the honest.

The Right to Information--Information, Public Awareness and Public Records

Information is a prerequisite for accountability, and is as such a central ingredient for any democratic system. Informed judgement and appraisal by the public, press and legislature are frustrated if government activities are hidden from view. Legislation--or other enforceable administrative arrangements--sanctioning the access to information is thus crucial to the creation and maintenance of a country's integrity. However, for access to be effective, official records must be readily accessible.

Giving Citizens a Voice

An empowered citizenry is a vital underpinning of a country's national integrity system. Citizens need to be informed, aware of their rights, willing to claim them and prepared, where necessary, to complain without fearing eventual oppression. Citizens charters can assist, and Citizens Advice Centres help in individual cases. Channels for complaints must be provided and public interest legislation can provide remedies.

Competition Policy and Containing Corruption

Competition policy determines the place of the state in the economic life of the nation by determining the way and the space in which it is involved. Competition policy also regulates the manner in which the private sector functions. It is therefore an essential tool to protect and promote economic activity and integrity and to ensure that this happens in the best interest of society.

Laws to Fight Corruption

Laws to fight corruption embrace much more than the criminal law. They include laws governing access to information, freedom of expression and a free media. The criminal law should be consistent with global human rights norms and afford a fair trial; it should not be overly repressive. Special provisions may be needed in corruption cases to require individuals with inexplicable wealth to explain its sources. The civil law can also provide remedies either to individual citizens or to the state. Specialist bodies can track and seize the proceeds of corruption. Amnesties may be needed to escape from the legacy of a corrupt past.

Surveys as Tools--Measuring Progress

A corrupt act is generally conducted in great secrecy. All parties involved in the direct transaction will have a vested interest in hiding their activities away from the public. Surveys therefore present a unique means of determining levels of corruption in a sector or society that otherwise would remain in the dark. Albeit imprecise and limited to perceptions only, corruption surveys address serious issues and not only raise levels of attention accorded to the problem as a result of increased awareness and pressure, but also provide information as to where interventions are needed.

Part IV: Lessons Learned

Lessons Learned--A Progress Report

The chapter summarises, in point form, about forty of the lessons learned in the field since the anti-corruption reform movement got under way in the mid-1990s.

Part V: Appendix


Emerging Best Practice in Containing Corruption

An overview of the documentation available as of the date of publication of the printed version of the TI Source Book.

Selected Bibliography

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