

# Globalisation, corruption and poverty reduction

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The poverty experienced by many nations has long been an international concern, at least since the United Nations was established. Along with war, exploitation and illiteracy, corruption, particularly endemic corruption, is a significant contributing factor to the continuation of poverty and the underdevelopment of a nation.

Clearly, development aid has had, and continues to have, a significant role in corrupt activities. It is encouraging to note, however, that of late several aid agencies are admitting to and looking into this internal problem.<sup>1</sup>

## What is corruption?

Transparency International defines corruption as the abuse of power for private advantage.<sup>2</sup> In effect, corruption is a legal wrong arising from a particular conduct or activity and suggests moral bankruptcy of an individual, a bureaucracy or a business.

Scholars have identified a number of different kinds of corruption. One can, for example, distinguish between political and bureaucratic corruption and parochial (to achieve status) and market (for money) corruption. Recognising the motivators behind these various types can be useful in determining ways to combat the problem.<sup>3</sup>

A distinction is also made between grand corruption and what is known as facilitation payments, grease payments or petty corruption.<sup>4</sup> Grand corruption involves the making of large payments to people in positions of power in order to secure a right or to obtain an advantage that could not be secured or obtained legitimately. Petty corruption involves the payment to minor officials of small amounts of money towards securing a right that is legitimately due, for example paying extra to have a telephone installed. Petty corruption, while not condoned, is considered to be of less concern than grand corruption, because it does not distort international trade or the economy or undermine the economic development of a country.<sup>5</sup>

While it is understood that in many countries petty corruption can impose a direct burden, particularly on the poor, and sometimes is the most 'visible' face of corruption, the international effort towards combating corruption – and the focus here – is on grand corruption.

## What is wrong with corruption?

Bribery, the most prevalent form of corruption, is prohibited in almost all countries,<sup>6</sup> even in those where corruption is endemic, such as Indonesia and Nigeria.<sup>7</sup>

It has been argued that corruption, in its most negative portrayal, is a Western construct and that what constitutes corruption and bribery in a developed country is no more than a traditional and cultural practice in another, non-Western and developing, country.<sup>8</sup> But even those countries that argue against the imposition of Western values have explicitly recognised through legislation that bribery and corruption are not cultural practices but illegal and outlawed activities. Further, concerns raised by the population in countries such as Nigeria and the old Zaire indicate that such corruption is not generally accepted as a traditional right.

It also has been argued that corruption could in fact have a neutral impact on an economy and therefore should not be illegal.<sup>9</sup> Indeed, some have gone so far as to argue that bribery can be an indication of the high level of business competition and that prohibiting businesses from bribing could result in their operating more as a cartel.<sup>10</sup> The overwhelming evidence, however, is that the damage caused far outweighs any perceived benefits:

Corruption is a symptom that something has gone wrong in the management of the state. Institutions designed to govern the interrelationships between the citizen and the state are used instead for personal enrichment and the provision of benefits to the corrupt. The price mechanism, so often a source of economic efficiency and a contributor to growth, can, in the form of bribery, undermine the legitimacy and effectiveness of government.<sup>11</sup>

Corruption is an economic, legal, environmental and social issue. It corrodes the social structure and trust in government, damages the economy and ultimately undermines the legitimacy of the state.<sup>12</sup> Also, the 'benefits' are inevitably enjoyed by a very few and tend to go disproportionately to the rich, to the detriment of the poor.<sup>13</sup> Indeed, it has been observed that 'the most serious corruption is an elite activity'.<sup>14</sup> Recent studies suggest that serious corruption also tends to benefit men more than women. This is because corrupt activity means less money is available for health and social security and that women suffer disproportionately as a consequence.<sup>15</sup>

The significant damage that corruption causes to the economic development of a country is also felt most strongly by the poor and therefore it contributes to poverty. A good example of its corrosive impact can be found in what was Mobutu's Zaire:

[Corruption and bribery] encourages competition in bribery, rather than in quality and price of goods and services. It inhibits the development of a healthy marketplace. Above all, it distorts economic and social development and nowhere with greater damage than in developing countries . . . Most important, the

heaviest cost is typically not in the bribes themselves but rather in the underlying economic distortions they trigger and the undermining of institutions of administration and governance.<sup>16</sup>

## Corruption and the impact on economies

There is no clear estimate of the global cost of corruption. However, according to the Association of Certified Fraud Examiners, all organisations worldwide lose around 6 per cent of annual revenue to fraud and corruption. In the USA, the cost is estimated to be around \$400 billion *per year*.<sup>17</sup> While it is unclear what percentage of this is attributable to corrupt activity, it suggests that corruption does result in significant sums of public moneys being illegally diverted to private use, sums that would go some way to redressing the debt being experienced by the more heavily indebted poor countries.<sup>18</sup>

Corrupt behaviour by public officials who are important decision makers can result in the wrong projects being developed, usually at the expense of smaller, more labour-intensive and ultimately more socially and economically beneficial ones. Developing countries have an abundance of examples of projects that were driven by the wrong motivators, especially during the 1970s and 1980s. This has resulted in steel mills, sugar refineries and other processing plants that cannot be used; inefficient and unnecessary dams; expensive national stadiums and other structures; and poorly constructed and unmaintained roads and railways. At the same time, the poorest members of these countries are still waiting for basic services.

## Does increasing globalisation mean increasing corruption?

There is no empirical evidence to suggest that increasing globalisation has led to increasing corruption.<sup>19</sup> Certainly, since the early 1990s there has been more evidence of corruption than previously and, unless concerted action is taken, the level will only increase.

What is required is both the reform of the public sector in those nations where corruption is most endemic (as well as others)<sup>20</sup> and a change in attitude by the private sector.<sup>21</sup> Increased numbers of wealthy companies trading around the world cannot help to reduce corruption unless they commit themselves to not giving bribes. And there is evidence to suggest that countries with strong anti-corruption programmes are seen to prosper. For example, a 1997 study concluded that, if corruption occurred in Singapore to the same extent as in Mexico, it would be equivalent to increasing the tax rate on the foreign investor by more than 20 per cent. Accordingly, it concludes that increased corruption has the same deterrent effect on investment as increased taxes.<sup>22</sup>

While multinationals have gained in number and economic strength over the past few decades, they have not usurped the role of the state – and cannot under the existing structure of international law.

## Can corruption be curbed?

Given the transnational nature of bribery and corruption, the detrimental impact on development, the endemic nature of corruption in many states such that it has become difficult if not impossible for businesses to operate transparently, and the resulting distortions to the global economy, the issue can only be successfully addressed if there is international cooperation.<sup>23</sup> This is particularly so as those local systems introduced to combat the problem are often themselves corrupted, or at least perceived to be, by a distrustful population.<sup>24</sup>

The USA enacted the Foreign Corrupt Practices Act (FCPA) in 1977. The Act prohibits American companies and citizens from bribing foreign public officials, foreign political parties or candidates for foreign political office. Criminal penalties are imposed in the event of a breach. The prohibition does not extend to the making of facilitation payments, or petty corruption.

However, it was not until the 1990s that other countries began to follow suit. The World Bank, among others, now targets corrupt practices as a major cause of underdevelopment and provides assistance to countries seeking to address the factors underlying corruption. This includes introducing measures to combat fraud and corruption and black-listing companies from participating in World Bank projects where they have been found to have breached procurement guidelines.<sup>25</sup>

Transparency International is another private sector initiative. Formed in 1993, it is a coalition against corruption and has national chapters in 80 states, most of them in developing countries.<sup>26</sup> It is a non-political and non-profit organisation that does not take sides or impose judgement on either bribe payers or bribe seekers. It does not investigate individual cases, nor does it seek to expose individuals who engage in corrupt activity. Instead, it devotes itself to combating grand corruption through creating awareness, improving systems and encouraging other organisations and individuals to join the coalition.<sup>27</sup>

Transparency International uses a number of strategies to achieve these ends, including two surveys: the Corruption Perception Index (CPI) and the Bribe Payers Index (BPI). The CPI, published annually since 1995, has been instrumental in increasing public awareness. The CPI ranks countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. In contrast, the BPI, launched in 1999, lists those countries in order of the propensity of their businesses and businesspeople to pay bribes.

The problem of corruption is thus becoming increasingly exposed and growing numbers of agencies and businesses are prepared to speak out against it and to take steps towards addressing it. Transparency International, through its national chapters, works with all governments, institutions and private sector companies and organisations, be they for-profit or non-profit, to assist them in this process.

## OECD Convention

The most significant initiative has been the adoption by OECD member countries and five non-member countries in December 1997 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

This convention obliges parties to it to implement legislation that prohibits the bribery of foreign officials and to impose 'effective, proportionate and dissuasive criminal penalties' on any persons, including corporations, who breach this prohibition. Each party is required to take necessary measures to prohibit the use of accounting or book-keeping methods to hide bribery payments and to ensure that bribery of a foreign public official is an extraditable offence. Given that the signatory countries account for around 70 per cent of world trade and around 90 per cent of foreign direct investment, it is likely that enactment of such legislation, if rigorously enforced, could have a significant impact.<sup>28</sup>

Australia implemented its obligations under the OECD Convention through the Criminal Code Amendment (Bribery of Foreign Public Officials) Act 1999. The Act was passed with bipartisan support and proclaimed on 17 December 1999. The Commonwealth Government also agreed to remove payments of bribes as tax deductions.<sup>29</sup> The Act applies to bodies corporate as well as individuals. However, the Commonwealth Criminal Code 1995 also deems a body corporate to be responsible for any offence committed by its employee, agent and officer acting within the actual or apparent scope of his or her employment, or actual or apparent authority.<sup>30</sup>

What will be crucial to corporations in such circumstances will be whether the relevant corporation had in place an adequate 'corporate culture' at the time the offence was committed.<sup>31</sup> In the event that an employee, agent or officer of a corporation is found to have bribed a foreign public official and that corporation's corporate culture is found to be inadequate, that corporation will be criminally liable for the conduct of that employee, agent or officer. A breach of the Act incurs a penalty of 10 years imprisonment or substantial fines, for both the individual and the corporation.

There remain some significant problems with the Act: how to gather sufficient evidence to secure a conviction and enforce the legislation; and concerns that companies may seek to use facilitation payments, which are not prohibited under the Act, as a means to avoid the prohibition.

### Will the OECD Convention be effective?

Concerns have been expressed about the strict nature of the prohibition and the fact that OECD companies may now suffer a disadvantage when competing for contracts overseas.

As noted above, the signatory countries account for considerable levels of world trade and foreign direct investment, which means that a significant number of companies are subject to the same laws. The fact that all of these are obliged to implement, or have implemented, comparable legislation also should go some

way to 'leveling the international business playing field', thus addressing some of these concerns.

The OECD Convention, if properly monitored and enforced, will encourage business to operate in a way that limits its involvement in corrupt activity, thus reducing its role in perpetuating poverty. Many well-known multinationals, such as BHP, Rio Tinto and De Beers, already prohibit the payment of bribes. Such companies are in a position to take unilateral action because they wield considerable economic power and because they are subject to close scrutiny by the media and non government organisations.

Where many problems are likely to arise is in the activity of the smaller, less well-known multinationals.<sup>32</sup> Many of them do not have the economic power to withstand corrupt demands made by foreign public officials, and/or some of them aim to maximise returns, and rapidly, and therefore are prepared to pay to achieve their objectives.<sup>33</sup>

## Conclusion

Poverty is worsening in many populations, particularly in Africa. Corrupt activities contribute significantly to the perpetuation of poverty and to the continued underdevelopment of some nations. It is only through international cooperation and a change in attitude by multinational companies, many of which are wealthier than the nations in which they operate, that corrupt activities can be curbed. Implementation of the OECD Convention obligations is a significant step towards achieving this aim.

## Acknowledgement

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## Notes

1. The Department for International Development (UK) is currently holding an inquiry on the matter and the World Bank has gone a long way in examining its own systems and the behaviour of its subcontractors.
2. See also H.K. Dey, 1989, 'The genesis and spread of economic corruption', *World Development*, 17, 503-504.
3. P.M. Nichols, 1997, 'Outlawing transnational bribery through the World Trade Organisation', *Law and Policy in International Business*, 28, 305-311.
4. *Ibid.* at 316.
5. Joint Standing Committee on Treaties: OECD Convention on Combating Bribery, 16 April 1998. There are many who disagree with this distinction and in fact some argue that petty corruption can be just as economically and socially debilitating as grand corruption.
6. See Nichols, *op. cit.*, n. 4; S. Rose-Ackerman, 1999, *Corruption and government: causes, consequences, and reform*, Cambridge University Press; and Transparency International–Australia (TI–A), 1998, *Submission by TI–Australia to the Joint Standing Committee on Treaties: Inquiry into the OECD Convention on Combating Bribery*, p.3.

7. Nichols, op. cit., n. 4 at 319–20. See also J.-F. Bayart, S. Ellis and B. Hibou, 1999, *The criminalization of the state in Africa*, International African Institute in association with James Currey and Indiana University Press; and J.M. Mbaku, 1996, 'Bureaucratic corruption in Africa: The futility of cleanups', *Cato Journal*, 16(1), 1 (also available online at: [www.cato.org/pubs/journal](http://www.cato.org/pubs/journal))
8. See, for example, P.O. Agbese, 'Foreword: Africa and the dilemmas of corruption', in J.M. Mbaku (ed.), 1998, *Corruption and the crisis of institutional reforms in Africa*, Edwin Mellen Press, p.9 (also available online at: <http://weber.edu/jmbaku/corruption>)
9. Da-Hsiang Donald Lien, 1990, 'Corruption and allocation efficiency', *Journal of Development Economics*, 33, 153-154.
10. Rose-Ackerman, op. cit., n. 7 at 182. See also C. Leys, 1965, 'What is the problem about corruption?', *Journal of Modern African Studies*, 3, 215-223. But it also has been argued that evidence of corrupt payments by businesses can be evidence of other illegal practices, such as the formation of international cartels, in breach of anti-trust legislation worldwide: see G. Spratley, 1999, 'International cartels: the intersection between FCPA violations and antitrust violations', paper presented to American Conference Institute 7th National Conference on Foreign Corrupt Practices Act, Washington, p.2.
11. Rose-Ackerman, op. cit., 7, 9.
12. Ibid; Nichols, op. cit., n. 4 at 342; and A. Klich, 1996, 'Bribery in economics in transition: the Foreign Corrupt Practices Act', *Stanford Journal of International Law*, 32, 121-130.
13. J.G. Lambsdorff, 1999, 'Corruption in empirical research: a review', Internet Centre for Corruption Research, 5. ([http://www.gwdg.de/~uwww/Research\\_area/lambsdorff\\_eresearch.html](http://www.gwdg.de/~uwww/Research_area/lambsdorff_eresearch.html))
14. J. Githongo, 2000, Executive Director, Transparency International–Kenya, 'Corruption as a problem in the developing world: effects on the economy and morale', paper presented to Seminar on Corruption and Development Co-operation, held by Government of Finland, May.
15. A Transparency International, press release: 'gender and corruption: are women less corrupt?' highlights other studies that suggest that corruption is less severe where women are in positions of power both in government and in business (see [www.transparency.de](http://www.transparency.de)).
16. J. Pope, (n.d), 'Building national integrity systems: The holistic approach to containing corruption', paper presented at conference on National and International Approaches to Improving Integrity and Transparency in Government, organised by OECD, OSCE and the World Bank.
17. *Helping countries combat corruption: Progress at the World Bank since 1997*, World Bank, June 2000, 1.
18. See, for example, the press release issued by the World Bank Group and the IMF, 'debt relief for the poorest countries: milestone achieved', where it was announced that debt relief will lift around \$34 billion in debt service obligations from 22 eligible nations ([www.worldbank.org](http://www.worldbank.org)).
19. See D. Kaufmann, 1997, 'Economic corruption: some facts', paper presented at 8th International Anti-Corruption Conference, Lima, in which a compelling analysis of this issue is argued. ([http://www.transparency.org/iacc/8th\\_iacc/papers/kaufmann.html](http://www.transparency.org/iacc/8th_iacc/papers/kaufmann.html))
20. This is not to suggest that there is no corruption in wealthy and/or developed nations. Clearly, corruption to various degrees occurs in all countries, however, the damage caused by corruption is most prevalent in developing nations.
21. This change in attitude is occurring and coincides with a broader movement, particularly by multinational companies, becoming more accountable to shareholders and communities –in other words, practising 'good corporate governance'. See, for example, P. Dicken, 1998 (3rd edn), *Global shift: Transforming the world economy*, Paul Chapman Publishing Ltd; J. Elkington, 1998, *Cannibals with forks: the triple bottom line of 21st century business*, New Society Publishers; and 'Business ethics: Doing well by doing good' *The Economist* 22 April 2000, 71.
22. S.-J. Wei, 1997, 'How taxing is corruption on international investors?', paper presented at 8th International Anti-Corruption Conference, Lima. ([www.transparency.org/iacc/8th\\_iacc/papers/jinwei.html](http://www.transparency.org/iacc/8th_iacc/papers/jinwei.html))
23. Joongi Kim and Jong Bum Kim, 1997, 'Cultural differences in the crusade against international bribery: rice-cake expenses in Korea and the Foreign Corrupt Practices Act', *Pacific Rim Law and Policy Journal*, 6, 549-560.
24. Nichols, op. cit., 4, 353. See also Agbese, op. cit., 9, 7.
25. See [www.worldbank.org/html/opr/procure/debarr.html](http://www.worldbank.org/html/opr/procure/debarr.html). Additional action is being taken by the UN, IMF, WTO, Council of Europe and European Union: Preamble to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. (<http://www.oecd.org//daf/nocorruption/20novle.htm>)
26. Transparency International's head office is in Berlin. For a full list of national chapters, see [www.transparency.de](http://www.transparency.de)
27. See [www.transparency.de](http://www.transparency.de) for details.
28. It should be noted, however, that there remain some significant trading countries, such as China, that have yet to sign the OECD Convention.
29. See [www.transparency.org.au](http://www.transparency.org.au) for details.
30. The Criminal Code Amendment (Bribery of Foreign Public Officials) Act incorporates the prohibition into the Commonwealth Criminal Code 1995.
31. The Code defines corporate culture as 'an attitude, policy, rule, course of conduct or practice existing within the body corporate generally or in the part of the body corporate in which the relevant activities takes place' (Section 12.3(6)).
32. M. Mehra, 2000, 'New frontiers of corporate responsibility and accountability: Response and remaining challenges', paper presented at UNDP Second Global Forum on Human Development, Rio de Janeiro, 9–10 October.
33. This raises an interesting question as to what liability a nation that has implemented its obligations under the OECD Convention might have under international law if it does not adequately enforce those obligations.